

INVESTIGATION OF THE SPECIAL SERVICE
STAFF OF THE INTERNAL
REVENUE SERVICE

PREPARED FOR THE
JOINT COMMITTEE ON
INTERNAL REVENUE TAXATION
BY ITS STAFF



JUNE 5, 1975

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1975

CONGRESS OF THE UNITED STATES
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

HOUSE

AL ULLMAN, Oregon, Chairman
JAMES A. BURKE, Massachusetts
DAN ROSTENKOWSKI, Illinois
HERMAN T. SCHNEEBELI, Pennsylvania
BARBER B. CONABLE, Jr., New York

SENATE

RUSSELL B. LONG, Louisiana,
Vice Chairman
HERMAN E. TALMADGE, Georgia
VANCE R. HARTKE, Indiana
CARL T. CURTIS, Nebraska
PAUL J. FANNIN, Arizona

LAURENCE N. WOODWORTH, *Chief of Staff*
LINCOLN ARNOLD, *Deputy Chief of Staff*

LETTER OF TRANSMITTAL

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, D.C., June 5, 1975.

HON. AL ULLMAN, *Chairman,*
HON. RUSSELL B. LONG, *Vice Chairman,*
*Joint Committee on Internal Revenue Taxation, U.S. Congress, Wash-
ington, D.C.*

DEAR MESSRS. CHAIRMEN: In its meeting on June 28, 1973, the Joint Committee on Internal Revenue Taxation instructed its staff to investigate charges that the Nixon administration used the Internal Revenue Service, in its enforcement of the Federal tax laws, for partisan political purposes.

This document deals with the results of the staff investigation on the Special Service Staff, a special unit created in 1969 by the Internal Revenue Service to gather information on so-called "extremist" organizations and individuals. It also deals with a previous "Ideological Organizations" project of the Internal Revenue Service that began in 1961, during the Kennedy administration.

The staff previously reported (on December 20, 1973), the results of its investigation with respect to the treatment by the Internal Revenue Service of individuals whose names appear on two lists of political opponents made up by the White House staff. That report included some information on the Special Service Staff. At the time of the prior report, however, the Joint Committee staff did not have access to the complete files of the Special Service Staff. Since that time, the Joint Committee staff has obtained access and is, therefore, able to report to the committee.

This report was prepared in large part from the examination of the Internal Revenue Service's files and records and from interviews with IRS personnel and others. In some cases the staff carried on independent investigations outside the Internal Revenue Service. The staff has had the complete cooperation of the Commissioner of Internal Revenue, Donald C. Alexander, and his staff throughout this investigation.

Sincerely yours,

LAURENCE N. WOODWORTH,
Chief of Staff.

CONTENTS

	Page
I. Introduction.....	1
II. Summary.....	
Formation of Special Service Staff.....	5
Development and termination of the SSS.....	6
Special Service Staff files.....	7
Coordination with other government units.....	8
Field referrals.....	9
Field referrals on war tax resisters.....	12
Coordination with exempt organizations branch.....	13
Previous "Ideological Organizations" project.....	13
III. Formation of Special Service Staff.....	15
Summary.....	15
Background.....	16
White House.....	16
Permanent Subcommittee on Investigations of the Senate Com- mittee on Government Operations.....	23
Other factors affecting the Internal Revenue Service.....	28
Decision to set up the SSS.....	28
Appendix.....	29
IV. Development and Termination of the Special Service Staff.....	33
Summary.....	33
Establishment of the SSS.....	34
Early focus of the SSS.....	36
Development of the SSS, 1969-72.....	37
Development of the SSS, 1972-73.....	39
Termination of SSS.....	41
Phaseout of operations of SSS.....	42
V. Special Service Staff files.....	45
Summary.....	45
Files examined.....	46
SSS criteria for establishing files.....	46
Subjects of the SSS files.....	47
Sources of names and information for SSS files.....	48
Growth of files.....	52
Maintenance of files.....	53
Contents of files.....	53
VI. Coordination with other government units.....	57
Summary.....	57
Information received by the SSS from other Federal agencies.....	57
Information received from congressional committees.....	64
Information received from State and local governments.....	65
Information provided to other government agencies and con- gressional committees.....	66
Communications with the White House.....	68
VII. Field referrals.....	73
Summary.....	73
Referral selection procedures.....	76
Method of referral to the field.....	79
Action taken by the field.....	81
Summary of field referrals.....	84
Subsequent field action concerning SSS referrals.....	87
VIII. Field referrals on war tax resisters.....	89
Summary.....	89
Origins of SSS activity on war tax resisters.....	89
Sources of war tax resister files.....	90
Field referrals of war tax resister cases.....	90

	Page
IX. Coordination with exempt organizations branch.....	93
Summary.....	93
Procedure for SSS coordination with exempt organizations branch.....	93
Methods of coordination—In general.....	95
Function of SSS and use of SSS information.....	96
Number of cases referred and dispositions.....	98
X. Previous "ideological organizations" project.....	101
Introduction.....	101
Summary.....	101
First-phase program.....	102
Second-phase program.....	106
XI. Committee considerations.....	111
Accumulation of information on political activities.....	111
Basis for reviewing compliance with the tax laws.....	112
Relationship between the White House and Internal Revenue Service.....	112
Information to be used in determining exempt status.....	113
Reviewing actions by the IRS.....	114

I. INTRODUCTION

In July 1969 the Internal Revenue Service established a special unit to gather information about so-called "extremist" organizations and individuals. This unit began operating in August 1969. It was first called the Activist Organizations Committee; later, its name was changed to the Special Service Group, and subsequently to the Special Service Staff ("SSS").¹

In its previous investigation on the political use of the Internal Revenue Service,² the staff examined the cases of 37 individuals who were the subject of referrals by the SSS to the Audit, Collection or Intelligence Divisions. At that time, the staff was not allowed access to the complete files of the SSS. Accordingly, a number of questions about the formation and operation of the SSS were left open at the time of the staff's previous investigation.

In its current investigation, the staff has focused on a number of issues dealing with the formation and operation of the SSS. This report discusses who formed the SSS and the influence exercised by the White House and the Congress on the IRS which may have contributed to the formation of the SSS. The report also describes the information collected by the SSS and the means by which the information was collected.

In addition the report describes the audit, collection, or intelligence activity that took place as a result of SSS actions. This report also discusses the impact of SSS activities on the determination of the exempt status of an organization. Additionally, the relationships of the SSS with other government agencies, such as the FBI, and with certain congressional committees are also described.

The staff also has examined a previous "Ideological Organizations" project of the Internal Revenue Service. This project began in 1961, and had been substantially completed in 1966. While this project involved a smaller number of organizations than the SSS,³ nevertheless, it appears to present some parallels to the SSS with respect to outside influence on actions of the Internal Revenue Service regarding "extremist" organizations.

The staff investigation consisted largely of reviewing SSS files, reviewing Internal Revenue Service field files on individuals and organizations who were the subject of SSS field referrals, and reviewing the Exempt Organizations Branch files on exempt organizations with which the SSS had become involved. Internal Revenue Service administrative files dealing with the SSS also were reviewed. The

¹ This report will generally use the term "SSS", although for reasons of clarity, the full name appropriate to the time in question is sometimes used.

² *Investigation into certain charges of the use of the Internal Revenue Service for political purposes*, prepared for the Joint Committee on Internal Revenue Taxation by its staff, 93d Cong., 1st Sess. (Com. Print, Dec. 20, 1973).

³ The Ideological Organizations project involved less than 50 organizations. The SSS had files on over 11,000 individuals and organizations, and initiated field referrals on 225 persons.

staff interviewed over 30 people, including individuals presently employed with the Service and the Treasury, people previously employed with the Service, and others. The staff had the full and complete cooperation of the Commissioner of Internal Revenue, Donald C. Alexander, and his staff throughout this investigation.

The Special Service Staff also has been of interest to other committees of the Congress which are concerned primarily with matters other than tax administration. For example, in December 1974 former Senator Sam J. Ervin, Jr. released a report on the SSS by the staff of the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary.⁴ This report focused largely on the constitutional issues involved in the SSS and provided a substantial amount of information about the operation of the SSS. However, since the staff of the Subcommittee on Constitutional Rights did not have access to tax information, it was not able to fully deal with the impact of the SSS within the Internal Revenue Service.⁵ The Joint Committee staff investigation has focused to a substantial extent on this issue.⁶

Present law—collection of political information by the IRS.—Present law provides that tax-exempt charitable, educational, etc., organizations cannot participate or intervene in any political campaign for public office. Also, "no substantial part of the activities" of such organizations can be "carrying on propaganda, or otherwise attempting, to influence legislation." (Sec. 501(c)(3) of the Code.)

The regulations under these provisions provide that a charitable, educational, etc., organization cannot be tax-exempt if it is an "action organization." (Regs. § 1.501(c)(3)-1(c)(3).) An organization is an action organization if a substantial part of its activities is attempting to influence legislation by advocating the adoption or rejection of legislation, etc., or if its primary objectives can only be realized by legislation (or the defeat of proposed legislation) and if it advocates or campaigns for the attainment of these objectives. An action organization also is an organization that intervenes directly or indirectly in a political campaign for or against any candidate for public office.

In the Tax Reform Act of 1969 (P.L. 91-172) the Congress concluded that there should be additional restrictions on the political activity of tax exempt private foundations. In this Act, private foundations generally were forbidden (on penalty of an excise tax) to spend money in attempting to influence legislation through grassroots lobbying or through direct communication with members of legislative bodies, and also were forbidden to engage in activities to influence the outcome of any specific public election. (Sec. 4945(d) of the Code.) The Congress found that these provisions were needed in the case of

⁴ *Political Intelligence in the Internal Revenue Service: The Special Service Staff.* A Documentary Analysis prepared by the staff of the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 93rd Cong., 2d Sess., (Com. Print Dec. 1974).

⁵ For example, the Subcommittee staff report could not determine "whether or how often Special Service Staff review actually prevented the issuance of a favorable ruling on an application for tax-exempt status." The Subcommittee staff report suggested that this "is an inquiry that would have to be made by one of the tax committees of Congress." *Id.* at 26. Also, the Subcommittee Staff was "unable to determine through its examination whether any adverse tax actions were later brought to bear against the individuals and organizations identified [by the SSS]." *Id.* at 47.

⁶ To protect the privacy of the persons involved, this report does not include the names of any individuals or organizations that were the subject of the IRS actions examined by the staff. However, the staff is informed that, pursuant to the Freedom of Information Act (5 U.S.C. sec. 552), the IRS will inform a person (on his request) whether the SSS maintained a file on him, and will inform him of the contents of that file.

private foundations to eliminate the ambiguity of prior law regarding lobbying and to prevent the use of private foundation funds in campaign activities.

The regulations governing exempt organizations also provide that an organization may be treated as an exempt "educational" organization if it provides "a sufficiently full and fair exposition of the pertinent facts" to allow an independent conclusion to be drawn. However, an organization is not educational "if its principal function is the mere presentation of unsupported opinion." (Regs. § 1.501(c)(3)-1(d)(3).) The reports of both the House Ways and Means Committee and the Senate Finance Committee on the Tax Reform Act of 1969 indicate concern that private foundations should not use "educational" grants to subsidize the preparation of material furthering specific political viewpoints.⁷

It appears that to properly administer present law the Service is required to examine the political activities of many tax-exempt organizations. This requirement would extend to exempt organizations of the extreme right and left as well as to organizations with other viewpoints.⁸ (However, as discussed below, the SSS maintained files on over 8,500 individuals, and on many organizations that did not claim tax exempt status.)

⁷ H.R. Rept. No. 91-413 (Part 1), 91st Cong., 1st Sess. 33 (1969); S. Rept. No. 91-552, 91st Cong., 1st Sess. 48 (1969). Also, the restrictions on lobbying by exempt organizations were recently considered by the House Ways and Means Committee in its deliberations on tax reform during the 93d Congress.

⁸ In 1969 the Service was responsible for administering firearms laws as well as the income tax laws. (This function was moved out of the IRS on July 1, 1972, when the Alcohol, Tobacco & Firearms Division became a division directly under the Treasury Department.) The considerations that go into determining whether information is relevant to the enforcement of firearms laws are quite different than the considerations involved in determining whether information is relevant for enforcing the income tax laws.

II. SUMMARY¹

Formation of Special Service Staff

In early summer 1969 there was substantial interest in both the White House and in Congress for the Internal Revenue Service to examine activist groups to see if they were meeting their tax responsibilities. There was also interest within the Service to act in this area.

The interest of the White House in tax examinations of left wing tax exempt organizations apparently was conveyed to the Commissioner of Internal Revenue, Randolph Thrower, by Dr. Arthur Burns² (then Counselor to the President) and by Tom Charles Huston (then on the White House staff), at a meeting in the White House on June 16, 1969. After the meeting, Mr. Thrower apparently told Roger V. Barth (then Assistant to the Commissioner) to get in touch with Mr. Huston. Mr. Huston sent a memorandum to Roger V. Barth on June 20, 1969, repeating the interest conveyed to Mr. Thrower at the earlier meeting. Mr. Barth apparently replied by sending Mr. Huston a memorandum on "Ideological Organizations" which had been prepared within the IRS for Mr. Barth on July 1, 1969, and a later memorandum describing the organizational meeting of the SSS. It also seems that this interest of the White House was communicated to some employees of the Service outside the Commissioner's office. However, the people who were in the office of the Assistant Commissioner (Compliance) and who were directly responsible for setting up the SSS do not recall any such White House interest.

The Permanent Subcommittee on Investigations of the Senate Committee on Government Operations also indicated an interest in having the Service act in this area. In early 1969 the Subcommittee was preparing for general hearings on militant organizations. In the course of these preparations the Subcommittee staff had discussions with the IRS about IRS actions regarding militant organizations. Also, the Subcommittee held a hearing in executive session devoted to IRS actions concerning militant organizations, where only Revenue Service people testified. (This hearing occurred on June 25, 1969, five days after the date of Mr. Huston's memorandum to Mr. Barth, described above.) The staff understands that this was the only hearing the Subcommittee held during its general hearings on militant organizations which was devoted solely to testimony by an executive agency with respect to its activities concerning such groups. At this hearing, the chairman of the Subcommittee stated his interest in having the Service act with respect to militant organizations, al-

¹This section consists essentially of the same material that appears at the beginning of each succeeding section of this report under the heading *Summary*. Therefore, the summary material can be read in its entirety in this section, or the pertinent parts can be read separately in connection with each individual section.

²Dr. Burns has told the staff he has no recollection of meeting with Mr. Thrower to discuss this issue.

though he also indicated he was not criticizing the Service for its prior activities.

There also was activity within the Service regarding militant groups. In March 1969, Donald L. Bacon, then the Assistant Commissioner (Compliance) asked the field for information on 22 extremist organizations. (These were organizations in which the Permanent Subcommittee expressed an interest, but the Subcommittee had not asked for this information to be compiled by the IRS.) Also on July 1, 1969, there was a presentation by an Alcohol, Tobacco and Firearms (AT&F) investigator on militant organizations to the staff of the Assistant Commissioner (Compliance); this probably also added to the concern of the Service.

It appears that the recommendation to set up the SSS was made by Leon Green, the Deputy Assistant Commissioner (Compliance), with the concurrence of Mr. Bacon, the Assistant Commissioner (Compliance). It also appears that Mr. Green's recommendation was significantly influenced by his reaction to his appearance before the Permanent Subcommittee on Investigations at its June 25, 1969, hearing.

The staff has not found any evidence that anyone in the White House requested that the Service establish a special compliance or data gathering project dealing with extremist organizations. Mr. Green and Mr. Bacon, who apparently made the decision to establish the SSS, told the staff that they do not recall any pressure from the White House to set up such a project. Additionally, the staff did not find any evidence that such requests were made by anyone in the Congress.

Nevertheless, the effect of White House and congressional interest (which occurred at essentially the same time) cannot be ignored. Because of this interest, it seems clear that some action by the Service with respect to militant groups was inevitable. The Joint Committee staff believes these were decisions made by the Deputy Assistant Commissioner and the Assistant Commissioner (Compliance) but probably in large part because of the interest of the White House and the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations.

Development and termination of the SSS

The SSS was established in several organizational meetings held in the IRS during July, 1969. During this time, the initial SSS personnel were chosen and the functions of the SSS were set out. The SSS was to "coordinate activities in all Compliance Divisions involving ideological, militant, subversive, radical, and similar type organizations; to collect basic intelligence data; and to insure that the requirements of the Internal Revenue Code concerning such organizations have been complied with." Also, some people associated with the SSS indicated that they believed the SSS was to play a role in controlling "an insidious threat to the internal security of this country."

The people involved with the SSS had a difficult time determining precisely what organizations and individuals to focus on. It appears from the staff's examination that the day-to-day focus of the SSS was largely determined by information it received from other agencies, as the FBI and the Inter-Divisional Information Unit of the Justice Department.

The SSS generally operated by receiving information from other investigative agencies and congressional committees, establishing files on organizations and individuals of interest, checking IRS records on file subjects, and referring cases to the field for audit or collection action. Also, the SSS provided information to the Exempt Organization Branch (Technical) with respect to organizations whose exempt status was in question. This method of operation was established by late 1969. (Each of these areas is described in detail in later sections of this report.)

In 1972, after a visit to the SSS basement office by Commissioner Walters, the SSS was moved to a different location, was included in the Revenue Manual, and was discussed at a conference of the Commissioner, his Deputy and Assistants, and the Regional Commissioners. Also, automation of the SSS files was planned, but was never implemented.

In May 1973 (one day after he was sworn in), Commissioner Donald C. Alexander met with top IRS personnel with respect to the SSS and directed that the SSS actions were to relate only to tax resisters. This was reemphasized in a second meeting held at the end of June 1973. In early August 1973, the Commissioner learned of National Office responsibility for an IRS memorandum relating to the SSS published in *Time* magazine. The Commissioner felt that this memorandum described activities that were "antithetical to the proper conduct of . . . tax administration" and he announced (on August 9, 1973) that the SSS would be disbanded.

Between August 9, 1973 and December 20, 1973 the SSS files were reviewed by IRS personnel to determine if any files had audit or collection potential. However, except for 230 cases relating primarily to war tax resisters, no field referrals were made from SSS files after August 9, 1973.

The Commissioner has testified before the Congress that when the various investigations of the SSS are completed, he will seek permission to destroy all the SSS files.

Special Service Staff Files

The SSS began with the names of 77 organizations and by the time it was disbanded in 1973 there was a total of 11,458 SSS files on 8,585 individuals and 2,873 organizations. The subjects of these files included organizations and individuals with widely varying points of view, from all parts of the country and from many vocational and economic groups.

Based on a random sample of the files examined by the staff, approximately 41 percent of the SSS files are on Black (and ethnic) organizations associated with violence, confrontations and civil disturbances (as well as some not associated with such activities) and their leaders, employees, and members. Approximately 15 percent of the SSS files are on what are generally considered to be White "right-wing extremist" and "racist" organizations advocating the use of force and violence. Approximately 18 percent of the files are on anti-war organizations and their leaders, employees and members. Approximately 11 percent of the files are on "new left" radical groups and their leaders and members. There are also a number of files on "liberal establishment" organizations such as church groups, etc.

There appears to have been no clearly defined criteria for the SSS to use in selecting a file subject. Instead, it appears that, for the most part, files were established based on the source material available to the SSS. The primary sources of names for the SSS files were the Department of Justice civil disturbance lists and the FBI reports sent to the SSS. The SSS received more than 11,000 FBI reports in four years. At times, particularly in the early days of the SSS, a significant portion of time was used to cope with (and set up files based on) FBI reports.

The Department of Justice (through FBI reports and the civil disturbance lists) appears to have provided over half of the subjects for the SSS files. Other sources included Congressional committees (3 percent), the IRS (11 percent), and books and publications (12 percent). The SSS also received information from an informant in the Washington, D.C., area.

The SSS files vary considerably in size and contents. Many are one-half inch to 1 inch thick (in 8½ by 11 inch manila folders) and consist largely of FBI reports. The files also include SSS worksheets, IRS master file computer printouts, newspaper clippings and miscellaneous information. The FBI reports often contain information on specific meetings or incidents involving an individual or organization; they also often contain background and biographical information on individuals. The FBI reports (which furnish the bulk of the SSS files) contain little information directly relevant to the administration of the tax laws, although they sometimes include information on employment and assets (such as vehicles and firearms). In a few cases the FBI reports include information on specific financial transactions.

Coordination with other government units

The SSS received information from a number of other Federal agencies, from congressional committees, and from some State and local agencies. As described in the section on Special Service Staff files, this information was used by the SSS as a source for establishing files and to augment previously established files.

Many of the SSS contacts with other agencies apparently were initially made on an informal basis by two SSS employees who had previously established their own associations in the intelligence community. (One of these employees was detailed to the SSS from the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service.³ The other employee had been detailed from the Service's Intelligence Division.) Formal contact also was established with other agencies; however the initial informal contact of these employees seems to have been an important element in the SSS coordination with other agencies and Congressional committees.

The most important sources of information for the SSS were the FBI and the Inter-Divisional Information Unit of the Department of Justice. Also, the Social Security Administration was of substantial importance (although, of course, the SSS did not receive "intelligence-type" information from Social Security). The Departments of Army, Navy, and Air Force also provided the SSS with information. Other Federal and State agencies also aided the SSS, although to a much smaller extent.

³ On July 1, 1972, AT&F became a separate Treasury bureau.

With respect to congressional committees, the House Internal Security Committee provided a significant amount of information to the SSS. The Subcommittee on Internal Security of the Senate Judiciary Committee and the Permanent Subcommittee on Investigations of the Senate Government Operations Committee also provided some information to the SSS.

Most of this coordination with other government units involved the SSS receiving information. In addition, some information was provided by the SSS to other government agencies and to congressional committees.

Communications With the White House.—There is some evidence that, after the formation of the SSS, there were inquiries to Roger V. Barth (formerly Assistant to the Commissioner) from the White House regarding specific organizations. Additionally, Mr. Barth made some inquiries regarding specific organizations to the office of the Assistant Commissioner (Compliance) which were answered by the SSS. However, the staff has not found any evidence that ties these White House inquiries on specific organizations to the inquiries from Mr. Barth that went to the SSS. In one case, information on contributors to a "left-wing extremist" organization went to the FBI from the IRS, and then from the FBI to the White House. The SSS was involved in this transfer of information to the White House.

In September 1970, Randolph Thrower, then Commissioner of Internal Revenue, reported to the White House in response to an inquiry from Tom Charles Huston regarding the activities of the SSS in general. This report did not deal with any specific individuals or organizations. Mr. Huston has told the staff that he forwarded this report to Mr. H. R. Haldeman, and thereafter he heard nothing from Mr. Haldeman on the issue and did nothing more with respect to this activity of the IRS.

Mr. Huston also has told the staff that he not talk with people in other executive agencies, such as the Department of Justice (or the FBI) to encourage them to help the IRS with respect to the SSS. Additionally, Mr. Huston has told the staff that he did not talk with the Internal Revenue Service about the SSS (or about the Service, in general) in regard to the Report of the Interagency Committee on Intelligence (the "Huston Plan").

Field referrals

The SSS referred to the field for audit and collection activity⁴ a total of 225 cases concerning individuals and organizations in the SSS files. (If husband and wife are counted separately, the referrals total 234. If additional known "communications" with the field are added, the total is 250.) The staff examined field office and SSS files for 149 of these cases, or approximately 66 percent of the total (225) number of cases referred to the field. As between individuals and organizations, the staff examined these files for 93 individuals and 56 organizations. The staff generally did not examine the complete field files on cases in current collection or audit action, to avoid interfering with such action.

It appears that SSS personnel would check centrally maintained IRS master files on a relatively systematic basis to see if individuals or organizations in the SSS files had filed required tax returns and (if filed) whether the returns indicated that an audit examination

⁴ In general, audit activity recommended by the SSS involved examination of returns already filed. Collection activity involved securing unfiled returns.

was appropriate. However, in the early stages, it appears that the SSS focused on one Black militant group (and individuals associated with the group) and also on one extremist left wing group (and individuals associated with that group). In at least one later situation, it appears that one group of organizations and associated individuals (underground newspapers and their editors) were given special attention by the SSS.

It appears that generally field referrals were not made by the SSS without some consideration of tax-related information, and that a field referral generally would not be made unless there was some reason to believe that there might be a failure to comply with the tax laws. However, in some of the cases reviewed by the staff, the tax deficiency potential appeared to be marginal, based on the information contained in the file. Also, in some "national security cases" it appears that the SSS may have made field referrals without checking an individual's wage (or other financial) records to determine if there was some evidence that a person who had not filed a return had taxable income.⁵ Also, in many cases a summary of non-tax background information from FBI reports was sent to the field, including an individual's activities such as speeches given, attendance at meetings, or demonstrations, etc. The background information also would include the individual's affiliation with Black militant groups, anti-war groups, or similar organizations.

SSS field referrals were made in the form of a transmittal memorandum with an attached information sheet and a recommended action. Initially (from August 1969, to June 1970) the transmittal memorandum indicated the field was to promptly take the action recommended by the SSS. Later, the form of the transmittal memorandum was changed, indicating that the field should take the action it deemed appropriate. The field objected to the recommended action only in a few cases. The field generally would take action on and close a collection case in about six months from the date of referral; an audit case could take somewhat longer.

The reaction by the field may have been affected because of the request by the SSS for a status report. Initially, the field reported to the SSS using sensitive case reporting procedures under which a report was required whenever there was a significant development. In June, 1972, this procedure was terminated and the field was instructed to inform the SSS of the results of any investigation. Then, in April 1973, quarterly status reports were required to be submitted to the SSS for each case initiated by it.

In collection cases referred by the SSS, the field generally would attempt to contact the taxpayer and arrange for the filing of any required returns. In collection cases where no return was required, during at least one year the SSS recommended that the field secure a signed, witnessed statement that no return was required. This type statement was not generally required by the IRS. In audit cases referred by the SSS there would be an office audit or a field audit, as appropriate. In a number of collection cases referred by the SSS the field determined that the individual was not required to file a return. Similarly, in some audit cases an audit was not conducted

⁵ Additionally, as described below, field referrals in "war tax resister" cases were made on a different basis than other referrals.

because, after survey of the return, the field decided no revenue potential was apparent.

In one case examined by the staff, the field objected to the recommended action because the District Director felt the recommendation discriminated against taxpayers associated with Black militant organizations. In another case, the field refused to follow the recommended action because an audit would not be required of a similar community fund-raising organization and the noncompliance potential was minimal. However, refusal to follow an SSS recommended action was unusual.

On the other hand, in one case examined by the staff, the revenue agent auditing the organization maintained frequent contact with the SSS, and the SSS provided information to the agent during the course of his examination of the organization. (This audit apparently began before the SSS field referral.) However, this extensive degree of communication directly with the field agent was not common. In most cases the only communication after a referral from the SSS to the field was one or more status reports from the field to the SSS and inquiries by the SSS to the field about the status of a case, where there had not been a status report for 3 to 6 months.

At the time it was discontinued, the SSS had established files on 8,585 individuals and 2,873 organizations. Approximately 800 of these cases were classified as "war tax resister" cases. According to information furnished the staff by the Internal Revenue Service, the SSS requested searches of Internal Revenue Service individual and business master files with respect to the filing status of 3,658 individuals and 832 organizations in the SSS files. In addition, the SSS conducted searches of the Internal Revenue Service exempt organization master file with respect to 437 organizations.

The SSS made field referrals on 136 cases involving individuals (145 if a husband and wife were counted separately) and 89 organizations. Of the 225 total referrals made by the SSS, 176 initially were collection cases and 49 initially were audit cases; however, there were later field transfers from collection to audit. Categorizing the individuals who were the subject of field referrals, 63 (of 136) appear to be primarily affiliated with Black militant groups. The next largest affiliation was 24 individuals primarily affiliated with anti-war groups. Additionally, of the field referrals there appeared to be the following primary affiliations: 13 individuals affiliated with student activist groups, 10 affiliated with civil rights groups, 10 affiliated with left-wing groups, 7 affiliated with right-wing groups, and 9 affiliated with other types of groups.

With respect to organizations, 57 (of 89) field referrals related to organizations which were considered by SSS as either left-wing (23), anti-war (19), or underground newspaper organizations (15). The remaining referrals were considered by the SSS to be of the following types: 6 Black militant organizations, 3 welfare and antipoverty groups, 3 religious organizations, and 20 organizations which were either civic, educational, social, or other types.

Total net assessments against individuals were approximately \$580,000, but approximately \$501,000 of that amount was attributable to four cases. Also, in 89 (of 136 total) cases, either no return was se-

cured, a refund was paid, or no tax was due. For organizations, the net revenue assessed was approximately \$82,000, and the Service revoked its determination of exempt status in one field referral case. (For other actions involving exempt organizations see the section on coordination with the exempt organizations branch.) The staff understands that less than \$100,000 of the total assessments has been collected, but that a significant portion of the amounts assessed is still in controversy.

The staff also reviewed SSS field referral cases for any follow-up activity by the field. In nine cases reviewed by the staff there was follow-up activity where the SSS-initiated action had not been closed before the returns for the later years were required to be filed. In six cases (some of which were among the nine just noted), there was later field action based on routine computer selection. The staff did not find any evidence that an SSS referral resulted in a taxpayer being placed on a list for future audit or collection action solely because the SSS referral had been made.

Generally, it appears that the SSS did not refer cases for field action without some analysis to determine a tax basis for the referral. The number of requests for Social Security data, master file checks, and requests for copies of returns tend to indicate that an effort was made to obtain tax information to form the basis for a referral to the field. Moreover, the small number of cases actually referred to the field in relation to the number of files established tends to indicate that the SSS generally screened cases before making a referral to the field. In the course of its review of the SSS files, the staff found that in some cases the tax-related information contained in the referral attachment might be considered to be insignificant. (However, the staff realizes that the evaluation of the significance of much of the material involves the exercise of individual judgment. In this light, the staff did not review any referral which was completely devoid of tax-related information, except for one "national security case".)

The unusual features of the SSS field referrals were (1) requiring an individual who was not required to file a return to sign a statement to that effect, (2) the direction to the field to take a specific action (in the initial transmittals), (3) the inclusion of background material which had a dubious relationship to tax liability, and (4) the requirement that sensitive case reporting or other progress reports be used in all cases. As a result of its review of the files, the staff concluded that the field generally did not treat taxpayers referred by the SSS any harsher than it would have in a routine case, although in a few cases the field examination may have been excessive in attention to detail.

With respect to the priority given to the SSS referrals by the field, it appears that SSS personnel initially believed that their case referrals would be given priority treatment by the field. However, the documents reviewed by the staff indicate that SSS personnel later became concerned that these cases were being handled in a routine manner by the field. From its review of the SSS files and related field office files, the staff has concluded that, except in isolated cases, the field handled the SSS referrals in a routine manner.

Field referrals on war tax resisters

In 1970 the SSS began to take account of what it called "war tax resisters." A "war tax resister" generally was defined as an individual

or organization that refused to pay Federal income or excise taxes as a protest against the United States' participation in the Vietnam war or who encouraged others to refuse to pay taxes. (However, the staff reviewed several cases included by the SSS in the war tax resister group of cases where noncompliance occurred because of a tax protest that was not directed toward the Vietnam war.)

The SSS classified approximately 800 files as "war tax resisters," and it referred to the field 550 of these cases. These referrals occurred in two groups, the first a group of 320 cases during March-April 1972, and the second a group of 230 cases during December 1973, after the SSS had been terminated. Unlike the other field referrals (discussed above) where the SSS recommended that the field take specific action, the tax resister referrals were sent out for the information of the field offices and for whatever action they "deemed appropriate."

Coordination with Exempt Organization Branch

Under a written operating procedure, certain exempt organization cases handled by the National Office were coordinated with the SSS. If a case involved a so-called "activist organization," the case was classified as an SSS case by the Exempt Organizations Branch (Technical) (the E-O Branch) and referred to the SSS in order that they might have an opportunity to see open case files pertaining to these organizations. The SSS would, in turn, flag those cases in which they were interested, request additional information from various agencies, and forward this information to the E-O Branch for its consideration in disposing of the case. Much of this information concerned officers or other individuals associated with the organizations seeking exemption.

During the period that the SSS was in existence, approximately 153 cases were referred to it by the E-O Branch. The SSS expressed an interest in 80 of these cases. In several cases, the SSS went beyond merely furnishing information to the E-O Branch and recommended a particular disposition of the case.

Although the SSS attempted to influence a decision of the E-O Branch in several cases in which they had expressed an interest, the staff, after analyzing the cases, found that the SSS played little, if any, part in the disposition of the substantive issues in the case. At an early stage in the operations of the SSS, it was established that the SSS was not to have a role in the determination of exempt status under the tax law. However, confidential information submitted by the SSS was used by the E-O Branch in several cases as a basis for requesting additional information from the organization seeking exemption. In addition, this information was considered in determining whether the organization's operations should be audited in the near future.

Finally, a review of the files showed that coordination with the SSS resulted in a delay in the rulings process. In many cases in which the SSS expressed an interest, the disposition of the case was delayed for a period of approximately one to three months, primarily as a result of coordination with the SSS.

Previous "Ideological Organizations" Project

In the fall of 1961 the Internal Revenue Service began an examination of extremist right-wing organizations. By spring 1962 the program included both left-wing and right-wing organizations; under

this program, a total of 22 organizations were examined, 12 right-wing and 10 left-wing. This program apparently was stimulated by a public statement of President John F. Kennedy and also a suggestion by Attorney General Robert F. Kennedy. The first-phase program was substantially completed by mid-1963.

In the summer of 1963 the Service began another program of examining extremist organizations; in some respects, however, this was an outgrowth and a continuation of the first program. The second program apparently was stimulated by White House communications to the Internal Revenue Service, including a telephone call from President Kennedy to Commissioner Mortimer M. Caplin. This program involved 24 (later 25) organizations. While the program originally was to be balanced between both right- and left-wing organizations, in practice it appears that 19 of the 25 organizations examined were right-wing. (This characterization was made by the IRS.)

Under the first-phase program, the National Office directed the field to audit the organizations in question, but there was little involvement of the National Office in the audit process itself. In the second-phase program the field, at the direction of the National Office, collected information for the National Office. The National Office then analyzed these facts to determine if each organization in question should be treated as tax-exempt. This project included a study of organizations that might be engaged in activities that could raise questions about their exempt status (*e.g.*, whether they properly could be treated as tax exempt "educational" organizations).

The staff has found no evidence that the White House or the Attorney General supplied names of organizations to be audited. However, a member of the White House staff reviewed the list of organizations proposed for the second-phase audit program and suggested that two organizations be deleted. These organizations were deleted from the list for audit, although one was subsequently added back. Additionally, it was reported that the Attorney General suggested that the IRS move its investigation of one particular organization along in rapid fashion.

The first-phase program was largely completed by July 1963. (In some cases, the examination of an organization was not complete and it was made part of the second-phase program.) By this time, it appears that the IRS had recommended revocation of the exempt status of two right wing organizations and had notified another right wing organization that its exempt status would be revoked. Also, there were adjustments on audit with respect to two non-exempt right wing organizations, and there had been a disallowance of deductions in one case for contributions to a non-exempt organization. The staff did not find any information that the IRS made any adjustments on audit, or revocation of exempt status, with respect to the left wing organizations in the first phase program.

The second-phase program was largely underway by the end of 1963. For the most part, it was completed by 1966. By 1967, the exempt status of 4 organizations examined under the program had been revoked; of these organizations, 3 were right-wing and 1 was left-wing. (In the case of one of the right wing organizations, revocation had been recommended in the first phase program.)

III. FORMATION OF SPECIAL SERVICE STAFF

Summary

In early summer 1969 there was substantial interest in both the White House and in Congress for the Internal Revenue Service to examine activist groups to see if they were meeting their tax responsibilities. There was also interest within the Service to act in this area.

The interest of the White House in tax examinations of left wing tax exempt organizations apparently was conveyed to the Commissioner of Internal Revenue, Randolph Thrower, by Dr. Arthur Burns¹ (then Counselor to the President) and by Tom Charles Huston (then on the White House staff), at a meeting in the White House on June 16, 1969. After the meeting, Mr. Thrower apparently told Mr. Barth to get in touch with Mr. Huston. Mr. Huston sent a memorandum to Roger V. Barth (then Assistant to the Commissioner) on June 20, 1969, repeating the interest conveyed to Mr. Thrower at the earlier meeting. Mr. Barth apparently replied by sending Mr. Huston a memorandum on "Ideological Organizations" which had been prepared within the IRS for Mr. Barth on July 1, 1969, and a later memorandum describing the organizational meeting of the SSS. It also seems that this interest of the White House was communicated to some employees of the Service outside the Commissioner's office. However, the people who were in the office of the Assistant Commissioner (Compliance) and who were directly responsible for setting up the SSS do not recall any such White House interest.

The Permanent Subcommittee on Investigations of the Senate Committee on Government Operations also indicated an interest in having the Service act in this area. In early 1969 the Subcommittee was preparing for general hearings on militant organizations. In the course of these preparations the Subcommittee staff had discussions with the IRS about IRS actions regarding militant organizations. Also, the Subcommittee held a hearing in executive session devoted to IRS actions concerning militant organizations, where only Revenue Service people testified. (This hearing occurred on June 25, 1969, five days after the date of Mr. Huston's memorandum to Mr. Barth, described above.) The staff understands that this was the only hearing the Subcommittee held during its general hearings on militant organizations which was devoted solely to testimony by an executive agency with respect to its activities concerning such groups. At this hearing, the chairman of the Subcommittee stated his interest in having the Service act with respect to militant organizations although he also indicated he was not criticizing the Service for its prior activities.

¹ Dr. Burns has told the staff he has no recollection of meeting with Mr. Thrower to discuss this issue.

There also was activity within the Service regarding militant groups. In March 1969, Donald L. Bacon, then the Assistant Commissioner (Compliance) asked the field for information on 22 extremist organizations. (These were organizations in which the Permanent Subcommittee expressed an interest, but the Subcommittee had not asked for this information to be compiled by the IRS. Also on July 1, 1969, there was a presentation by an Alcohol, Tobacco and Firearms (AT&F) investigator on militant organizations to the staff of the Assistant Commissioner (Compliance); this probably also added to the concern of the Service.

It appears that the recommendation to set up the SSS was made by Leon Green, the Deputy Assistant Commissioner (Compliance), with the concurrence of Mr. Bacon, the Assistant Commissioner (Compliance). It also appears that Mr. Green's recommendation was significantly influenced by his reaction to his appearance before the Permanent Subcommittee on Investigations as its June 25, 1968, hearing.

The staff has found no evidence that anyone in the White House requested that the Service establish a special compliance or data gathering project dealing with extremist organizations. Mr. Green and Mr. Bacon, who apparently made the decision to establish the SSS, told the staff that they do not recall any pressure from the White House to set up such a project. Additionally, the staff did not find any evidence that such requests were made by anyone in the Congress.

Nevertheless, the effect of White House and Congressional interest (which occurred at essentially the same time) cannot be ignored. Because of this interest, it seems clear that some action by the Service with respect to militant groups was inevitable. The Joint Committee staff believes these were decisions made by the Deputy Assistant Commissioner and the Assistant Commissioner (Compliance) but probably in large part because of the interest of the White House and the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations.

Background

Questions have been raised as to the extent to which the SSS may have been established because of interest expressed by the White House or the Congress.

On July 2, 1969, the first recorded meeting dealing with the organization that ultimately became the SSS was held within the Internal Revenue Service. An IRS memo of July 18, 1969, described the function of the SSS to "coordinate activities in all Compliance Divisions involving ideological, militant, and subversive, radical and similar type organizations; to collect basic intelligence data; and to insure that the requirements of the Internal Revenue Code concerning such organizations have been complied with."

Both the White House and the Congress expressed an interest to the IRS in activist groups before July 2, 1969. This section of the report describes this interest.

White House

Recommendations to President Nixon.—In his interview with the staff, Tom Charles Huston (formerly a member of the White House staff) said that in the first half of 1969 an informal group of "conservative" White House staffers (called by some the "Committee of Six") occasionally met at the request of President Nixon to make pol-

icy recommendations on what the administration should be doing. Mr. Huston participated in this group.

Mr. Huston said in his interview that among the recommendations made to President Nixon in the first half of 1969 was that the section of the Internal Revenue Service responsible for tax exempt organizations should look at exempt left-wing organizations to determine if they were complying with the tax laws. Mr. Huston told the staff that this recommendation was made in a memorandum written by Patrick Buchanan, also a former member of the White House staff. (The staff has not been able to find a copy of the memorandum containing this recommendation.²)

Mr. Huston indicated to the staff that this recommendation was stimulated by information which had been given to the Ways and Means Committee during its hearings on the Tax Reform Act of 1969 concerning Ford Foundation grants to former staff members of Senator Robert F. Kennedy after he was assassinated.³

Mr. Huston also indicated to the staff that the recommendation was stimulated by information he had received about one particular organization, setting out facts that apparently would have prevented this organization from being tax-exempt under the Internal Revenue Code.

Mr. Huston said in his interview that President Nixon agreed with this recommendation that the IRS should look at the tax compliance of left-wing exempt organizations. (In a memorandum of September 21, 1970, to Mr. H. R. Haldeman, Mr. Huston said that "Nearly 18 months ago, the President indicated a desire for the IRS to move against leftist organizations taking advantage of tax shelters.") Mr. Huston said that Dr. Arthur A. Burns (at that time, Counselor to the President) was then asked to speak with the Commissioner of Internal Revenue about this problem; however, Mr. Huston does not know who asked Dr. Burns to do this.

In his staff interview, Mr. Buchanan said that among the areas discussed by the Committee of Six was the problem of organizations abusing their tax-exempt status by engaging in political activities that opposed the administration. Mr. Buchanan said that he could not specifically recall any memorandum to President Nixon about this particular topic, but that if the question was discussed by the Committee of Six, it would have been included in a memorandum to President Nixon.

Mr. Buchanan told the staff that he may well have suggested in a Committee of Six memorandum to President Nixon that the use of tax-exempt money for political purposes be looked into, that this was a scandal. Mr. Buchanan said that he believes there was a "go-ahead" to communicate with Dr. Arthur Burns (then President Nixon's top domestic advisor), and through him to the Secretary of the Treasury on this question.

Meeting of June 16, 1969.—On June 16, 1969, Randolph Thrower (then Commissioner of Internal Revenue) met with Dr. Burns and

² The staff has asked the White House to furnish a copy of this memorandum. The staff was informed by Philip W. Buchen, Counsel to the President, that "the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in *Nixon v. Sampson, et al.*, Civil Action No. 74-1518 requires that Mr. Nixon or his counsel consent to the production of any of the 'Presidential materials of the Nixon Administration.' Mr. Herbert J. Miller, Jr., counsel for Mr. Nixon, has refused to consent to any search for or production of the items numbered two and three in your letter." (Item three in the staff's letter is the memorandum in question.)

³ *Hearings on the Subject of Tax Reform Before the Comm. on Ways and Means*, 91st Cong., 1st Sess., pt. 1, at 372-376 (1969).

Mr. Huston in the Executive Office Building. This meeting is confirmed by Mr. Thrower's notes taken at the meeting and his memorandum of the meeting dated June 16, 1969.⁴ It was also confirmed by Mr. Thrower and Mr. Huston in their staff interviews. Mr. Thrower's calendar and the date book kept by Dr. Burns' secretary also show entries for this meeting. In addition, the records of the Executive Protection Service show that Mr. Thrower entered the Executive Office Building on June 16, 1969, for a meeting with Dr. Burns at the scheduled time of the meeting.

In his staff interview, Dr. Burns said he has no recollection of this meeting with Mr. Thrower. Dr. Burns said he did recall several other conversations with Mr. Thrower dealing with exempt organizations in general (but not with left wing groups) and the membership of a high level committee to advise the IRS on exempt organizations. Dr. Burns has reviewed Mr. Thrower's memorandum of the June 16, 1969, meeting, and has advised the staff that its contents do not stir any recollection of the June 16, 1969 meeting.⁵

Mr. Huston said in his interview that Patrick Buchanan also attended the meeting of June 16, 1969. Mr. Thrower's notes and memorandum of that meeting do not indicate that Mr. Buchanan attended. Mr. Buchanan said in his interview that he did not recall attending a meeting with Mr. Thrower about exempt organizations and that he did not believe he has ever met Mr. Thrower. However, Mr. Buchanan said that he is almost certain that the White House staff made contact with the IRS regarding the exempt organization question.

Mr. Thrower's Memorandum to the File of June 16, 1969, concerning his meeting with Dr. Burns of that date states that Dr. Burns was "initially interested principally in expressing to me the concern of the President about enforcement in the area of exempt organizations. The President had expressed to him great concern over the fact that tax-exempt funds may be supporting activist groups engaged in stimulating riots both on the campus and within our inner cities."

Mr. Thrower's memorandum of June 16, 1969 also states that Dr. Burns called in Mr. Huston who cited a number of instances where he thought that a tax exemption was being abused or where he thought the Service was not applying its rules equally to organizations of the right and of the left. In his staff interview, Mr. Huston said that at this meeting he discussed several specific examples of tax-exempt organizations whose tax compliance might be investigated.⁶ (One

⁴ In his interview, Mr. Thrower said he believes that this memorandum was written quite soon after the meeting. This memorandum is reprinted in the appendix to this section.

⁵ Dr. Burns advised the staff that he does recall an encounter with Mr. Huston in the corridor of the Old Executive Office Building in which he believes that Mr. Huston touched on the subject of "activist" or "radical" organizations that he felt might improperly be treated as tax-exempt. Dr. Burns also advised the staff that in this encounter Mr. Huston may have expressed the President's concern about this issue.

⁶ Mr. Huston told the staff that at this meeting he also raised a question about the equality of treatment by the Service with respect to some tax-exempt rural electrification cooperatives and a conservation group since the exempt cooperatives were engaged in the same type of political activities as the conservation group, which had recently lost its tax-exempt status. Mr. Thrower's memorandum also noted that this question had been raised. This question was also raised in the memorandum of June 20, 1969, from Mr. Huston to Mr. Barth, described below. Additionally, on June 30, 1969, Mr. Thrower sent a letter to Dr. Arthur Burns with a copy to Mr. Huston with respect to this question concerning the tax treatment of the conservation group and the rural electrification cooperatives. The first paragraph of this letter says that it is in response to the comments made by Mr. Huston at the meeting of June 16, 1969, and the comments in Mr. Huston's memorandum of June 20, 1969, to Roger V. Barth.

This exchange involving Mr. Huston, Mr. Thrower, and Mr. Barth also substantiates the occurrence of the meeting of June 16, 1969, and is independent evidence substantiating both Mr. Huston's recollection of the meeting, and the description of the meeting contained in Mr. Thrower's memorandum to the file of June 16, 1969.

organization named in Mr. Thrower's memorandum as being an "activist" organization that was of specific concern to Mr. Huston also was noted by Mr. Huston in his interview with the staff, as an example that he had used at this meeting.)

Mr. Thrower's memorandum of June 16, 1969, additionally states that he would like "Roger Barth to get in touch with Mr. Huston and advise him that we would be pleased to receive and take into account information of the sort that he referred to in connection with a number of organizations and, in particular, the [taxpayer] ⁷". In his staff interview, Roger V. Barth (then Assistant to Commissioner Thrower) said that he did not recall talking with Mr. Thrower about this meeting at the White House with Dr. Burns and Mr. Huston, nor did he recall Mr. Thrower's memorandum of June 16, 1969 (which indicates that Mr. Barth was to receive a copy).

Mr. Thrower said in his staff interview that he did not recall telling Mr. Barth anything about his meeting in the White House (other than what is in his memorandum of June 16, 1969, of the meeting). Mr. Thrower said that he may have talked to Donald Bacon (then Assistant Commissioner, Compliance) about the meeting to provide further stimulus to the exempt organization program. (However, Mr. Thrower said that he did not talk with anyone in the office of the Assistant Commissioner (Compliance) about setting up an organization as the SSS.) Mr. Bacon told the staff that he did not recall any specific White House interest in auditing exempt organizations. Mr. Bacon also told the staff that he does not recall Mr. Thrower (or Mr. Barth) suggesting during 1969 an audit of the specific organizations in which the White House had expressed an interest.

Memorandum of June 20, 1969.—On June 20, 1969, Mr. Huston sent a memorandum to Mr. Barth which dealt with the same issues raised by Dr. Burns and Mr. Huston at their meeting with Mr. Thrower on June 16, 1969.⁸ In this memorandum, Mr. Huston said "I would recommend that the Tax-Exempt Organizations section take a close look at the activities of the [taxpayer]."⁹ This memorandum also stated that "I have advised the President that Mr. Thrower is aware of his personal interest in this subject. The President has indicated that he is anxious to see some positive action taken against those organizations which are violating existing regulations, and I have assured him that I will keep him advised of the efforts that are presently underway."¹⁰ Additionally, in the memorandum Mr. Huston said "I

⁷ The staff has examined the Internal Revenue Service field files for this organization. The organization was audited in 1968 and again in 1969. The 1969 audit was begun within two weeks after Mr. Thrower's meeting in the White House, and it appears it was begun at the direction of the National Office. The staff has not been able to determine the reason why the 1969 audit was begun. While the audit may have been initiated because of a White House suggestion, it also may have been initiated because of a previously established audit plan. The file indicates that in September 1968 the IRS had determined that the organization should be periodically audited because it was engaged in legislative activities that are limited by sec. 501(c)(3) of the Internal Revenue Code. (Additionally, there had been a number of congressional inquiries around this time with respect to this organization.) The staff believes that the audit of this organization begun in 1969 should be reviewed by the Inspection Division of the Internal Revenue Service.

⁸ This memorandum is reprinted in the appendix to this section.

⁹ The staff has examined the IRS field files on this organization. The organization was audited in 1967, and this audit resulted in a "no change" report. The organization was audited again after 1970. Apparently, an audit was not begun in 1969 after the White House recommendation.

¹⁰ However, Mr. Huston has told the staff that he did not talk with President Nixon (nor Mr. H. R. Haldeman) about his June 1969 meeting with Mr. Thrower, and that the next contact he had with Mr. Haldeman about this issue was his September 21, 1970 memorandum about a report on the SSS that he received from Mr. Thrower. (See section VI.)

would appreciate it if you would keep me advised of what steps are being taken by the Service in this regard."

In his interview with the staff, Mr. Barth said that the memorandum of June 20, 1969, looked familiar and that he vaguely recalled it. Mr. Barth said that he imagined that he would have shown this memorandum to Mr. Thrower, although he could not recall doing this. Also, Mr. Barth said that, while he does not recall what he did with respect to the taxpayers named in the memorandum, his regular procedure would have been to refer the matter to Donald Bacon, because he was Assistant Commissioner (Compliance).

Mr. Thrower told the staff that he does not recall the June 20, 1969, memorandum from Mr. Huston to Mr. Barth and does not recall talking to Mr. Barth and asking him to do anything specific with respect to the inquiry. Mr. Thrower noted, however, that any inquiry of this type generally would have gone to Mr. Bacon. Mr. Bacon told the staff that he does not recall being asked to take a special look at the taxpayers mentioned in Mr. Thrower's memorandum of the June 16, 1969 meeting or in Mr. Huston's June 20, 1969 memorandum.

Telephone call of June 26, 1969.—In June 1969 Eddie D. Hughes, then a special agent in the Alcohol, Tobacco and Firearms (AT&F) Division of the IRS, was assigned to the Atlanta region. At that time, he was a national coordinator for AT&F with respect to militant organizations. On June 26, 1969, Mr. Hughes participated in a conference of AT&F agents in Phenix City, Alabama. Present with him at that conference was the AT&F Chief of Enforcement, Thomas Casey.

In his staff interview, Mr. Hughes said that during the 26th of June, Mr. Casey told him that he (Mr. Casey) had received a telephone call from the head of AT&F, Harold Serr. Mr. Hughes said that as a result of this call he was told that he was to go to Washington on July 1, 1969, to brief Donald L. Bacon, Assistant Commissioner (Compliance) and his staff on militant organizations. Mr. Hughes said he remembers this call and the date of the call because it corresponds with his "daily reports" which he made as an AT&F special investigator. (Mr. Hughes also said that this trip to Washington interrupted his vacation plans.)

Mr. Hughes said in his staff interview that Mr. Casey told him that he was to help prepare a report for the White House while he was in Washington on this trip. On June 27, 1969, Mr. Hughes submitted an application to AT&F for reimbursement for expenses to be incurred in the use of his own automobile in travelling to Washington on June 29, 1969. In this application, Mr. Hughes said, "My presence in Washington, D.C., is necessary to assist the National Office with a report on militant organizations, and the financial funding thereof, as it relates to violations of the Internal Revenue Code. The report was requested by and will be submitted to the White House." In his staff interview, Mr. Hughes said that Mr. Casey had told him to include this statement in his application for reimbursement. Mr. Hughes told the staff that at that time AT&F had limited funds and this statement was to be used to substantiate Mr. Hughes' use of his personal car.

In his staff interview, Harold Serr said he did not recall talking with Mr. Casey on June 26, 1969, about Mr. Hughes traveling to Wash-

ington, nor could he recall any White House interest with respect to militant organizations.¹¹ (Additionally, Mr. Serr said that he had only infrequent contact with Mr. Barth.)

Meeting and memorandum of July 1, 1969.—In his interview, Mr. Hughes said that on July 1, 1969, he gave a full-day briefing on militant organizations to members of the staff of the Assistant Commissioner (Compliance). (Mr. Bacon, the Assistant Commissioner, told the staff that his diary indicated he met with Mr. Hughes on June 30, 1969, not July 1.) Mr. Hughes said in his interview that after the briefing he helped Bernard Meehan of the Assistant Commissioner's staff prepare a report from the Assistant Commissioner (Compliance) to Mr. Barth on ideological organizations.¹² (In his interview, Mr. Meehan confirmed that Mr. Hughes had helped prepare the memorandum.) Mr. Hughes also said in his interview that he thought this memorandum was in response to an inquiry from Mr. Barth the week before, that he understood this report was to go to Mr. Barth, and that as far as he knew he did not participate in preparing a report for the White House.

The report to Mr. Barth was on the activity of the Compliance Divisions with respect to "Ideological Organizations." The memorandum begins by saying "In view of the recent high level interest shown in the activities of ideological organizations, I asked the Compliance Divisions concerned to furnish a three-phase report outlining the enforcement action taken . . ." The memorandum then discussed current activity with respect to five specific organizations that also were listed in a June 25, 1969, memorandum of the Assistant Commissioner (Compliance) to his division directors. The memorandum also includes a list of organizations which were then being examined by the Service, and a short description of the action being taken. (In his interview, Mr. Meehan indicated he did not believe that the phrase "high level interest" referred to White House interest.)

It is not clear when Mr. Barth asked for the information contained in this memorandum. There is some evidence that suggests that his request may have occurred around June 25, 1969, and that his request may have been the origin of the memorandum of that date from the Assistant Commissioner (Compliance) to the directors of the various branches within the Compliance Division of the IRS. However, none of the people interviewed by the staff who were working in the office of the Assistant Commissioner (Compliance) recall any connection between the June 25, 1969, memorandum and an inquiry by Mr. Barth or by the White House. Instead, as described below, they recall that the memorandum was written as a result of Mr. Green's reaction to his testimony on that day before the Permanent Subcommittee on Investigations of the Senate Government Operations Committee.

Mr. Huston told the staff that he believes he has previously seen a copy of the July 1, 1969, memorandum from the Assistant Commissioner (Compliance) to Roger V. Barth regarding "Ideological Organizations," and said he believes that he received a copy of the memorandum from Mr. Barth. Mr. Huston noted in his interview

¹¹ Mr. Casey has since died.

¹² The staff is aware that Mr. Meehan is related by marriage to Ms. Rose Mary Woods, the secretary to former President Nixon. However, the staff has found no indication that this relationship affected Mr. Meehan's actions in any way with respect to the subject matter covered by this report.

that in his August 14, 1970, memorandum to Mr. Barth (described in section VI, Coordination with Other Government Units, below) he used the term "Ideological Organizations." Mr. Huston said that this is not his term and he believes it is logical that the term came from the July 1, 1969, memorandum. (The term "Ideological Organizations" was developed by the Service in the course of an earlier project; see section X, Previous "Ideological Organizations" Project.)

Additionally, Mr. Huston told the staff that he did not know the internal organization of the IRS and did not know who did what in the Service. However, his memorandum of August 14, 1970, to Mr. Barth asked for progress made by the "Compliance Divisions" of the Service. Mr. Huston said that he believes he used this term because he had seen it in the July 1, 1969, memorandum to Mr. Barth. Mr. Barth said in his interview with the staff, he did not recall sending the memorandum of July 1, 1969, to Mr. Huston, but it would not surprise him if this had occurred. Also, Mr. Huston's memorandum of August 14, 1970, to Mr. Barth referred to a previous communication of July 1, 1969, between Mr. Huston and Mr. Barth. Mr. Barth suggested to the staff that the date July 1, 1969, may have been used because it was the date of the memorandum from the Assistant Commissioner (Compliance) to Mr. Barth.

Mr. Thrower said in his staff interview that he has no recollection that he authorized Mr. Barth to send a copy of the July 1, 1969, memorandum to anyone at the White House and had not known that the memorandum was sent to the White House. Mr. Thrower said he does not recall seeing this memorandum previously or discussing it with Mr. Barth.

Memorandum of July 24, 1969.—On July 24, 1969, the formal organizational meeting of the SSS (Activist Organizations Committee) occurred. This meeting was recorded in a memorandum (entitled "Activist Organization Committee") to the file of the same date by Donald O. Virdin (then Assistant Chief of the Disclosure and Liaison Branch), who attended the meeting.

In his staff interview, Mr. Huston said that he believes he has previously seen the memorandum of July 24, 1969, entitled "Activist Organizations Committee" prepared by Mr. Virdin. Mr. Huston said that he thinks Mr. Barth or Mr. Thrower sent him a copy of this memorandum. Mr. Huston said his reaction to the establishment of the SSS was that this was "just another committee." (Mr. Huston said that the general assumption in the White House was that when the bureaucracy wanted to avoid taking action, a committee would be formed.)

Mr. Barth said in his staff interview that he did not recall sending Mr. Huston a copy of the July 24, 1969, memorandum. Mr. Thrower told the staff that he did not send this memorandum to Mr. Huston, and that he does not recall authorizing Mr. Barth to send it to Mr. Huston.

Other indications of White House interest.—Donald O. Virdin said in his interview that sometime early in July 1969, Patrick Putnam (who was then the FBI liaison with the Service) told him that he (Mr. Putnam) had been told by Mr. Huston at the White House that Mr. Huston had seen an IRS memorandum on what the IRS was doing regarding activist organizations and that Mr. Huston

was glad the Service was doing something about this. Mr. Putnam told the staff he had no recollection of such a conversation with Mr. Virdin, and that he only met Mr. Huston once, at which time he did not discuss this activity of the Service. Mr. Huston told the staff that he did not know Mr. Putnam and has no recollection of talking with him.

Mr. Virdin also wrote a note on the bottom of a memorandum for the file he prepared on July 17, 1969, regarding a conversation he had with Mr. Putnam about FBI procedures concerning investigations of organizations. The handwritten note says "White House—Tom Houston (sic)—in charge—Barth & Bacon." In his interview Mr. Virdin said that his notes mean that memoranda were prepared by Mr. Bacon, they went to Mr. Barth, and then to Mr. Huston who was in charge of this program at the White House.¹³ Mr. Virdin said that he recalled that Mr. Putnam told him of Mr. Huston's role.

In a later memorandum to the file (July 31, 1969), Mr. Virdin reported a conversation he had with Bernard Meehan about the SSS. Mr. Virdin's memorandum says that a copy of the minutes of the meeting on the SSS was forwarded to Mr. Barth, and that Mr. Meehan said that they were at the White House. In his interview, Mr. Meehan said that he did not recall saying this to Mr. Virdin.

Statements concerning lack of White House direction.—Mr. Huston said in his staff interview that no one talked to him in advance about setting up the SSS nor did he have any discussion with Mr. Barth about the IRS setting up such an organization. Mr. Huston said that no orders were given to Mr. Thrower at the June 16, 1969, meeting. He said there was no request at the meeting that there be a "report back tomorrow," but there was a request that Mr. Thrower take a look at the compliance with the tax laws of left-wing exempt organizations. Also this request was repeated in Mr. Huston's memorandum to Mr. Barth of June 20, 1969.

Mr. Barth said in his interview that he is sure he did not say to the people in the Compliance Division that the White House has ordered the IRS to establish a group to monitor activist organizations.

Mr. Thrower said in his interview that he does not know exactly what the SSS did and that his concept of the SSS is that it primarily was a "cut-and-paste" operation. Mr. Thrower said that if the SSS had been a creation of the White House, that he would specifically recall what its function was.

Mr. Green and Mr. Bacon also said at their interviews that they did not receive any White House direction or pressure to set up an organization such as the SSS.

Permanent Subcommittee on Investigations of the Senate Committee on Government Operations

On June 16, 1969, the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations began a series of extensive public hearings on organized groups involved in riots in the nation's cities and on university campuses.¹⁴ These hearings focused on

¹³ Mr. Bacon told the staff he did not know that the memoranda of July 1, 1969, or July 24, 1969, were sent to the White House.

¹⁴ *Hearings on Riots, Civil and Criminal Disorders Before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations*, 91st Cong., 1st Sess., part 18, et seq. (1969).

the Black Panther Party, the Students for a Democratic Society, the Student Nonviolent Coordinating Committee, and the Republic of New Africa. The hearings took place after more than a year of investigation and analysis by the Subcommittee's staff.

Request for tax information.—Part of the investigation by the Permanent Subcommittee dealt with the finances of militant organizations. As a result, the Permanent Subcommittee requested access to tax information (under sec. 6103 of the Code and Executive Order No. 11454 dated February 7, 1969) on 22 specific organizations. On March 5, 1969, Senator John L. McClellan, Chairman of the Permanent Subcommittee on Investigations, wrote to David M. Kennedy, Secretary of the Treasury, asking that six members of the Permanent Subcommittee staff have access to tax information on these 22 organizations, and that the revenue agents and auditors familiar with the relevant files be made available to talk with Subcommittee staff members. Pursuant to the tax laws, this information was made available by the Service.¹⁵

Soon after Senator McClellan's request, a memorandum (dated March 25, 1969) was sent from Donald L. Bacon, Assistant Commissioner (Compliance) to all Regional Commissioners with respect to the 22 organizations listed in Senator McClellan's letter. In this memorandum, Mr. Bacon asked the Regional Commissioners to "prepare a complete, detailed, and comprehensive memorandum for each organization in your region. . . ." The memorandum was to include information with respect to tax return filing and payment history, names and addresses of organizers and officers, exempt status, financial status and source of funds, investigative history, and an overall picture of the organization, including motives, activities, attitude, size, and impact on the general public.¹⁶ (However, the Permanent Subcommittee did not ask the IRS to compile this information in the National Office. The memorandum was sent to the field apparently because the IRS felt there should be more information in the National Office on these organizations.)

Investigation by Permanent Subcommittee staff.—During the spring and early summer of 1969, staff members of the Permanent Subcommittee made several field trips to talk with Internal Revenue Service personnel about specific organizations.

Philip Manuel, Chief Investigator for the Permanent Subcommittee, said in his interview that members of the Subcommittee staff made several trips to the Atlanta area in connection with the investigation of one organization which the Permanent Subcommittee focused on during its hearings. Mr. Manuel told the staff that while he was in Atlanta, he talked with the revenue agent examining this organization, the agent's Group Supervisor, the District Director, and with other people in the Atlanta Office. Mr. Manuel said he discussed how his investigation was progressing, and what the Permanent Subcommittee staff was discovering. Mr. Manuel said that he talked with these IRS people in order to cooperate with the Service. In addition, Mr. Manuel said that in the National Office he talked with Leon Green who was Deputy Assistant Commissioner (Compliance) and with Donald Virdin, then Assistant Chief, Disclosure and Liaison Branch.

¹⁵ A similar request was made in September 1968 and access was granted then as well. The 1969 request was needed because a new Congress had been convened in January, 1969.

¹⁶ Apparently, this request created "much fuss" in the field and several regions asked whether they were to begin an audit of these organizations based on this memorandum. Memoranda to the file indicate that the regions were told not to begin audits, but only to furnish information to the National Office.

In a memorandum for the file of May 26, 1969, dealing with his contacts with Mr. Manuel, Mr. Virdin wrote that Mr. Manuel had said that Senator McClellan was rather upset because the Service had not done anything regarding militant organizations. However, on May 28, 1969, Mr. Virdin also wrote in another memorandum for the file that Mr. Manuel had indicated that recent action by the Service reduced some of this criticism. Similarly, Leon Green wrote in a memorandum of May 29, 1969, to Donald L. Bacon that Mr. Manuel wondered why "we have not been more active in organizations other than [taxpayer]."

Mr. Manuel said, in his staff interview, that he never considered that the Internal Revenue Service was under investigation. However, he said that the investigation made some IRS people uneasy. Mr. Manuel told the staff that it was obvious that there was a certain amount of noncompliance with the tax laws on the part of at least two of the organizations that the Permanent Subcommittee was focusing on. He also said that Subcommittee concern with this situation may have been transmitted to the IRS although he did not know what conclusions the IRS might have reached in this regard. Mr. Manuel additionally said that he had observed increased activity on the part of the IRS, and that the IRS seemed to become more involved in examining militant organizations, as his own investigation went on.

Testimony before the Permanent Subcommittee on June 25, 1969 by IRS personnel.—In the course of the Permanent Subcommittee's investigations, attention was focused on an organization that had not filed tax returns for a number of years. The Service was examining this organization, but the Department of Justice had refused to enforce a summons which had been served by the IRS on the organization and its officers for production of certain books and records.

At the end of May, 1969, Senator McClellan indicated in a letter to Secretary of the Treasury David M. Kennedy that the Subcommittee was considering calling the revenue agent examining this organization, and others from the Service, to testify. On June 25, 1969, four Revenue Service employees testified before the Permanent Investigations Subcommittee in executive session—Roy H. Orr, a revenue agent from Atlanta; Robert Kollen, Assistant Regional Counsel from Atlanta; Leon Green, Deputy Assistant Commissioner (Compliance); and Robert Spatz, Assistant to the Chief Counsel. Mr. Spatz said in his staff interview that he attended the hearing because he had been designated as counsel for Mr. Orr and Mr. Kollen. Mr. Spatz also said that he had thought that someone from the National Office should be at the hearing, and believes he may have suggested that Mr. Green attend.

Most of the executive session before the Permanent Subcommittee dealt with the Internal Revenue Service examination of the organization described above.¹⁷ Mr. Orr generally testified about his attempt to secure books and records from the organization, and about the results to date of his examination of the organization. Mr. Orr also testified about financial transactions of this organization. Most of the hearing involved the testimony by Mr. Orr.

In his testimony before the Permanent Subcommittee, Mr. Green

¹⁷ The Permanent Subcommittee on Investigations made the transcript of this executive session available to the Joint Committee staff for this report.

indicated concern with respect to the way the examination of this organization was going, because he thought it might set a bad precedent with respect to other organizations. Mr. Green also indicated that only one week before, the Service had begun an audit of another organization in which the Permanent Subcommittee was interested. In response, Senator McClellan said "I was not criticizing you." Later in the hearing Senator McClellan said that "I happen to be subject to the income tax" and "I just don't understand why some other group that is probably dedicated to the overthrowing of the Government, to violence, can escape comparable treatment." Senator McClellan indicated he thought that the Service had been "thwarted" in its investigations, both by the organization being investigated and by the Justice Department. At a later point he said, that "I hope we will find some way to deal with them. If they don't owe any tax, well and good."

In his interview with the staff, Mr. Green said that, before he testified, he had no reason to think it was going to be a pleasant experience, because there were so many questions that the Service could not answer. Mr. Green said that he recalled¹⁸ that Senator McClellan was very outspoken and critical that the IRS had not done more. He said that with respect to at least one organization, Senator McClellan was quite critical of the Internal Revenue Service. Mr. Green additionally said that Senator McClellan made it clear that he felt it was the duty and responsibility of the Internal Revenue Service to be sure that organizations of this type, and the people in them, pay the right amount of tax.

Mr. Green said in his interview that when he came back to the Service from his appearance before the Permanent Subcommittee, he felt concerned that the Service was not in a position to be able to answer questions about militant individuals and organizations who were spending considerable amounts of money, and he was concerned about the money that militant groups were allegedly spending on firearms and explosives. Mr. Green also said that he felt that the Service had been "raked over the coals" by Senator McClellan.

Mr. Green also told the staff that he did not recall Senator McClellan making any suggestion or proposal for IRS action in this area, that he was not directed to do anything in particular, and was not directed to set up an organization like the SSS. However, Mr. Green said that he felt it was clear that Senator McClellan felt strongly that the IRS should do something to be sure that extremist organizations did not abuse the tax laws.

Memorandum of June 25, 1969.—On the same day that Mr. Green testified before the Permanent Subcommittee on Investigations, a memorandum was sent by the Assistant Commissioner (Compliance) to his division directors asking them for information on five named ideological organizations, plus additional information on any other similar organizations that were being examined at the time. Two of the named organizations had been mentioned in meetings or memoranda involving the White House; three (and perhaps four) of the organizations were of interest to the Permanent Subcommittee.

¹⁸ Mr. Green's interview took place before he had read the transcript of his testimony before the Permanent Subcommittee on Investigations; therefore, his statements are his independent recollections of this hearing.

This memorandum may have been stimulated by the memorandum from Mr. Huston to Mr. Barth of June 20, 1969 described above. However, none of the individuals interviewed by the staff had that recollection. In particular, Bernard Meehan, who was a staff assistant to the Assistant Commissioner (Compliance) and who actually wrote the memorandum, said in his staff interview that he believes the memorandum had no connection with the White House. Mr. Meehan said that the only recollection that he had concerning the memorandum was that Mr. Green appeared before the Permanent Subcommittee, came back to the Service, and wanted the memorandum done that day. Mr. Green said in his interview that he did not have any recollection of Mr. Barth calling him and asking him for a report to the White House, and he said that such an event would have been "burned on my memory and I would never have forgotten it." (Mr. Green did not recall the memorandum that Mr. Meehan prepared on June 25, 1969.)

Meetings of July 2, 1969, and July 29, 1969.—The first recorded meeting within the Service dealing with what ultimately became the SSS was held on July 2, 1969. The minutes of that meeting state that a meeting with Philip Manuel, on the Permanent Subcommittee staff, was to be held on July 29, 1969. (This meeting is described more fully in section IV, Development of Special Service Staff.)

At the July 29 meeting, members of the SSS met with Mr. Manuel and two other investigators from the Permanent Subcommittee. At that meeting, Paul Wright (Chief of the SSS) outlined what the SSS was going to do and said that any informal arrangements for exchange of data (or questions from the Permanent Subcommittee concerning the activities of the SSS) were to be directed to him. Mr. Wright also generally discussed the plans for the operation of the SSS. The IRS minutes of that meeting state that Mr. Manuel, subject to the approval of Senator McClellan, offered the cooperation of the Permanent Subcommittee to the IRS.

Initial organizations reviewed by SSS.—The SSS began with files on 77 organizations. (See section V, Special Service Staff Files.) Twenty-two of these were the organizations that the Permanent Subcommittee inquired about on March 5, 1969. An SSS report states that, in the initial stages, the "principal review of files has been concentrated on" these 22 organizations.

Later memorandum.—In August 1970, Tom Charles Huston wrote a memorandum to Roger V. Barth asking about progress that the Compliance Division of the Service had made with respect to ideological organizations. The response to this inquiry essentially was prepared by the SSS. The response, in its first paragraph, discusses the hearings of the Senate Committee on Government Operations which dealt with militant organizations. This report to Mr. Huston in the White House, therefore, links the establishment of the SSS with these hearings.

Statements concerning lack of direction by the Permanent Subcommittee.—Mr. Green said in his interview that he did not recall any suggestion during the Permanent Subcommittee hearings that the Service take specific action with respect to militant organizations, and he did not recall Senator McClellan stating any proposals for IRS action. In this regard, Mr. Green said "We were not directed to do anything particularly, and certainly not to set up the organization that we

set up." Mr. Green also said, however, that it was clear that Senator McClellan felt strongly the IRS should do something to be sure there were no abuses and violations of the tax law by extremist organizations.

Mr. Manuel also said, in his staff interview, that he did not recall any time that anyone from the staff of the Permanent Subcommittee gave the IRS any guidance or asked them to do anything specific regarding their own procedures or investigations. Also, Mr. Manuel said that he, personally, did not in any way try to set policy of the Service nor did he recommend actions the Service should take.

Other Factors Affecting the Internal Revenue Service

Randolph Thrower said in his staff interview that at the time in question he and others in the Service were pressing Mr. Bacon, the Assistant Commissioner (Compliance), to do the most he could, within the limits of available manpower, in the exempt organization field. Mr. Thrower told the staff that there were congressional complaints about exempt organizations from members of both parties and from Congressmen and Senators of both liberal and conservative philosophies. Mr. Thrower said that this reached a "high level of intensity" by the time he became Commissioner. Mr. Thrower also said that his impression was that Senator McClellan and his subcommittee constituted a prime stimulant with respect to exempt organizations.

Mr. Thrower noted also that during the first-half of 1969, the Ways and Means Committee hearings on tax reform emphasized private foundations, and also put emphasis on political activities of private foundations. (The Ways and Means Committee actions did not relate to extremist organizations.) In a speech on August 10, 1969, before the American Bar Association Section on Taxation, Mr. Thrower stated that "I have recently assured the Ways and Means Committee that I and my staff will give personal attention to the movement and direction of [the exempt organizations] program." Mr. Thrower also said in his staff interview that, in response to a request from the Senate Finance Committee, he agreed to set up an exempt organizations Advisory Committee composed of prominent citizens representing a cross-section of American life to advise the Service with respect to basic policy concerning exempt organizations.

Mr. Thrower told the staff that he did not consider that the principal stimulus with respect to exempt organizations came from the administration, although there was no question the administration was quite interested. Mr. Thrower told the staff that it seemed merely an incident that the White House indicated a similar concern about abuses in the exempt organization area. (He additionally stated that this seemed an entirely appropriate concern for the President and the White House, although there did appear at times a tendency on the part of the White House to focus its concern upon the activities of organizations of the left, but that he would consistently respond that the IRS was concerned with potential violations "across-the-board.")

Decision to Set Up the SSS

In his interview with the Joint Committee staff, Leon Green (then Deputy Assistant Commissioner, Compliance) said that he recommended to Donald L. Bacon (then Assistant Commissioner, Compli-

ance) that the SSS be set up (and Mr. Green also said that it quickly expanded beyond anything he visualized). Mr. Bacon said he agreed with this recommendation. Mr. Green said that there was no White House influence in his decision. Mr. Bacon also said in his interview that there was no direction or pressure from the White House in the decision to set up this group. Mr. Green and Mr. Bacon additionally said there was no direction from the Congress to set up such an organization, although after he had testified before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations, Mr. Green felt the Service had to take some action with respect to activist organizations. (Mr. Bacon told the staff that the SSS was started partly to be able to respond to the questions raised by Mr. Green because of his appearance before the Permanent Subcommittee.)

Appendix

JUNE 16, 1969.

Memorandum for the file

Subject: Exempt Organizations Advisory Committee.

I conferred today with Dr. Arthur Burns with the expectation of securing from him recommendations for this committee and comments on proposals that we had developed. As it turned out, practically all of our time was directed toward a discussion of program and policy and very little time was left for discussion of personnel. We consumed a full hour together and people were being kept waiting for an appointment with Dr. Burns.

As to the list of those recommended by others for consideration as chairman, Dr. Burns expressed the opinion that they all expressed a more liberal philosophy than that entertained by the President, and evidently by himself, and that he would like to have us consider other possibilities. He mentioned two presidents of fairly small colleges without national recognition. My response was, first, that we would like to have someone of national stature to assist in providing status to the committee and also someone of such a philosophy and breadth of interests as to lend the greatest credibility to the committee's recommendations and to our decisions reached with the aid of the committee. I expressed the fear that my selection of a noted conservative would tend to prejudge and discredit the results in the eyes of some, particularly of the people most affected, that is, the foundations, before the work was ever begun. I suggested, therefore, that this be kept in mind in making suggestions for the selection of a chairman, recognizing that there was ample room on the committee for more conservative points of view. This exchange came toward the close of our conversation and it was terminated with my request to Dr. Burns to give consideration to the question and let us have his suggestions on personnel.

Dr. Burns seemed initially interested principally in expressing to me the concern of the President about enforcement in the area of exempt organizations. The President had expressed to him great concern over the fact that tax exempt funds may be supporting activist groups engaged in stimulating riots both on the campus and within our inner cities. He called in a younger man, a Mr. Huston (Dr. Burns later told me he thought his first name was Tom) from the staff of James Keogh, research and writing staff of the President. Mr. Huston is a lawyer who has had some experience in pursuing applications for tax exemption and cited a number of instances where he thought that

the tax exemption was being abused, or where he thought the IRS was not applying its rules equally to the organizations of the right and the left. As an instance of abuse he referred to the ——— which he said has recently separated into two groups, one engaged in legislative activity, in order to protect the exemption of the group receiving donations. He seemed to have information on this available in his files. Dr. Burns expressed concern that the citizens welfare group, reported in the papers recently as extracting \$35,000 from social workers under confinement and threat of harm, may have been tax exempt. I questioned the probability of its being tax exempt.

Mr. Huston mentioned the denial of the exemption of the ——— while another group opposing the legislative objective sought by the ——— enjoyed an exemption. He also mentioned the fact that ——— in the organization of a group to support a certain policy on China, had felt it inappropriate even to apply for an exemption, while organizations dedicated to precisely the opposite result enjoy the exemption and purport to present both sides of the question while really providing only token balancing of the points of view. He mentioned what was done with respect to ——— while other so-called religious groups of liberal strain, doing the same sort of thing in principle, remain untouched.

Dr. Burns raised the question as to whether there possibly might be some ideological bias within the IRS toward the more liberal organizations. I explained the developing views within the IRS with respect to IRS organization, procedures, and the meritorious issues in this area. I acknowledged that the coverage had been far from satisfactory in the past, but pointed to the manpower problems and to the inconsistency between aggressive pursuit of exempt organization investigations and our traditional appraisal of field investigations in terms of productivity in dollars. I pointed out what had been done in the last couple of years to move the IRS to the position where fairly comprehensive coverage could now be realistically contemplated provided the investigative manpower were expanded. As to the ideological bias, I pointed out that this had not been indicated to me and that, in fact, the experts in the area in the IRS had felt for years that they were "voices crying in the wilderness" about the need for more legislative sanctions, better definition of permissible areas of operation, and expanded manpower to support stricter enforcement. Dr. Burns seemed satisfied with this, and said that he had no occasion to criticize, but was simply raising the question. I pointed out to him that bias might be indicated in a case like that of ——— who may have been rather unimaginative in his departure from permissible conduct as contrasted with foundations that were much more sophisticated in their approach and thus made their operations more difficult to appraise. In this connection I explained that many of the activities supported by foundation funds which have been so objectionable may not have been performed by organizations dependent upon exemptions but by grantees who had no exemption. I explained that we intended to put heavy burdens on foundations granting funds under these circumstances.

Dr. Burns wanted to know whether enforcement would await the production of the advisory committee. I answered in the negative.

I explained how the advisory committee fitted into the total plan proposed by the Treasury and apparently accepted by the Ways and

Means Committee; that is, of expanded, tightened enforcement, legislative creation of sanctions and limitations on operations, and review of the traditional definitional problems with the benefit of an experienced and well-advised committee of citizens. He felt that the committee could be quite helpful in the total picture.

We will await the recommendations of Dr. Burns while continuing to get suggestions from others. In the meantime, I would like for Roger Barth to get in touch with Mr. Huston and advise him that we would be pleased to receive and take into account information of the sort that he referred to in connection with a number of organizations and in particular the ———.

By the way, in view of the concern expressed over the philosophies of the several people recommended for chairman, I mentioned that among economists being considered I had in mind Dan Throop Smith, which seemed to meet with the full approval of Dr. Burns.

(Signed) R. W. T.

cc: Mr. Smith
Mr. Barth

JUNE 20, 1969.

Personal and confidential.

Memorandum to: Mr. Roger Barth, Assistant to the Commissioner,
Internal Revenue Service.

From: Tom Charles Huston, Staff Assistant to the President.

I would recommend that the Tax Exempt Organizations section take a close look at the activities of the ———. This foundation has been a principal source of funding for New Left leaders and organizations as well as old-line Communists.

At the time the ——— lost its tax exempt status, the ——— and the ——— both of which were expending money for advertising and lobbying in support of Grand Canyon dams—were permitted to retain their tax exempt status. In fact, there is no public information to suggest that their activities were even reviewed by the IRS, let alone reviewed with the same yard stick which had been applied to the

I assume that as a result of the testimony before the Ways and Means Committee, the activities of the ——— are presently under examination.

I have advised the President that Mr. Thrower is aware of his personal interest in this subject. The President has indicated that he is anxious to see some positive action taken against those organizations which are violating existing regulations, and I have assured him that I will keep him advised of the efforts that are presently under way.

I would appreciate it if you would keep me advised of what steps are being taken by the Service in this regard.

TOM CHARLES HUSTON.

IV. DEVELOPMENT AND TERMINATION OF THE SPECIAL SERVICE STAFF

Summary

The SSS was established in several organizational meetings held in the IRS during July, 1969. During this time, the initial SSS personnel were chosen and the functions of the SSS were set out. The SSS was to "coordinate activities in all Compliance Divisions involving ideological, militant, subversive, radical, and similar type organizations; to collect basic intelligence data; and to insure that the requirements of the Internal Revenue Code concerning such organizations have been complied with." Also, some people associated with the SSS indicated that they believed the SSS was to play a role in controlling "an insidious threat to the internal security of this country."

The people involved with the SSS had a difficult time determining precisely what organizations and individuals to focus on. It appears from the staff's examination that the day-to-day focus of the SSS was largely determined by information received from other agencies, such as the FBI and the Inter-Divisional Information Unit of the Justice Department.

The SSS generally operated by receiving information from other investigative agencies and congressional committees, establishing files on organizations and individuals of interest, checking IRS records on file subjects, and referring cases to the field for audit or collection action. Also, the SSS provided information to the Exempt Organization Branch (Technical) with respect to organizations whose exempt status was in question. This method of operation was established by late 1969. (Each of these areas is described in detail in later sections of this report.)

In 1972, after a visit to the SSS basement offices by Commissioner Walters, the SSS was moved to a different location, was included in the Revenue Manual, and was discussed at a conference of the Commissioner, his Deputy and Assistants, and the Regional Commissioners. Also, automation of the SSS files was planned, but was never implemented.

In May 1973 (one day after he was sworn in), Commissioner Donald C. Alexander met with top IRS personnel with respect to the SSS and directed that the SSS actions were to relate only to tax resisters. This was reemphasized in a second meeting held at the end of June 1973. In early August 1973, the Commissioner learned of National Office responsibility for an IRS memorandum relating to the SSS published in *Time* magazine. The Commissioner felt that the policies expressed by this memorandum were "antithetical to the proper conduct of . . . tax administration" and he announced (on August 9, 1973) that the SSS would be disbanded.

Between August 9, 1973 and December 20, 1973 the SSS files were reviewed by IRS personnel to determine if any files had audit or collection potential. However, except for 230 cases relating primarily to

war tax resisters, no field referrals were made from SSS files after August 9, 1973.

The Commissioner has testified before the Congress that when the various investigations of the SSS are completed, he will seek permission to destroy all the SSS files.

Establishment of the SSS

The SSS was established in several organizational meetings held in the Internal Revenue Service during July 1969.

Meeting of July 2, 1969.—The first meeting leading to the organization of the SSS was held on July 2, 1969. Mr. Donald Bacon told the staff that this meeting was held pursuant to the decision made by him and Mr. Green to set up this organization. (This meeting was recorded in a memorandum for the file of July 2, 1969, written by Donald O. Virdin, who attended the meeting.) IRS employees from the Disclosure Branch, Intelligence Division, Alcohol, Tobacco and Firearms Division, and the Audit Division (all under the jurisdiction of the Assistant Commissioner, Compliance) attended this meeting.

Mr. Virdin's memorandum states that the basic decision reached at this meeting was that a task force should be established within the IRS to collect information on "ideological organizations" and to "see that there was coordination between all Compliance activities, Technical, and Chief Counsel" regarding ideological organizations. The task force was to have "central records containing a summary of information on all organizations which will be available for use in the National Office or in connection with any field investigations." This memorandum further states that the task force would establish liaison with, and try to obtain information from, the Internal Security Division of the Department of Justice.¹

At the July 2, 1969, meeting, it also was decided that the IRS would meet with the Chief Investigator of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations. It was additionally agreed that the chairman of the new task force should be a "high-grade official", perhaps someone who had been through the "XD" (executive development) program.

Meeting of July 8, 1969.—A follow-up meeting was held on July 8, 1969. Generally, the earlier participants attended, with some change in the makeup of the group. Mr. Virdin wrote a memorandum summarizing this meeting also. At this meeting, it was decided that a list of 55 organizations which had been prepared by the IRS since July 2, 1969, would be forwarded to the field offices with a request for information on the organizations. This same list was to be sent to the FBI with a request for any information in the FBI files on these organizations. The memorandum of the meeting noted that Donald Bacon had been in touch with the Internal Security Division of the Justice Department. (In his interview Mr. Bacon said that he did not recall talking with the Justice Department about extremist organizations.)

¹ Mr. Virdin's memorandum of the meeting also states that there would have to be approval from the Department of Justice "of any investigation which is not solely initiated because of a possible IRS violation." In a staff interview an IRS employee who attended the meeting stated that he did not recall this statement and that to his knowledge it was never contemplated that the SSS was to be used in nontax investigations. Another IRS employee suggested to the staff that this statement might refer to Alcohol, Tobacco, and Firearms nontax investigations or perhaps to occasional "Title 18" violations that the IRS might discover and would refer to other departments for investigation.

Finally, at the meeting, it was determined that the task force (which ultimately became the SSS) would have representatives from the Audit, Collection, Intelligence, and Alcohol, Tobacco and Firearms Divisions of Compliance.

On July 14, 1969, the list of 55 organizations discussed in the July 8, 1969, meeting was sent by the Assistant Commissioner (Compliance) to all Regional Commissioners, with a request for information on these organizations. (The information requested was similar to the information requested from the field on March 22, 1969, regarding the 22 organizations in which the Permanent Subcommittee on Investigations had indicated an interest.)

Appointment of Chief of SSS.—Soon after the July 8, 1969, meeting, it was recommended to Mr. Bacon that Paul Wright be appointed chief of the organization that became the SSS. (Formally, he was to be chairman of the Activist Organizations Committee.) Mr. Wright was on the staff of Harold Snyder, Director of the Collection Division in the National Office. Mr. Wright was a graduate of the XD program and had been doing special assignments on Mr. Snyder's staff. At that time, Mr. Wright was available for a new assignment, and it was agreed that he would head the SSS.

On July 18, 1969, a memorandum was sent by the Assistant Commissioner (Compliance) to all Compliance Division Directors, the Chief Counsel, the Assistant Commissioner (Technical), and the Assistant Commissioner (Data Processing) stating that the SSS (then called the Activist Organizations Committee) would be formed and that Mr. Wright would act as its chairman. The memorandum stated that the SSS was being established to "coordinate activities in all Compliance Divisions involving ideological, militant, subversive, radical, and similar type organizations; to collect basic intelligence data; and to insure that the requirements of the Internal Revenue Code concerning such organizations have been complied with. It is expected that the committee will function indefinitely." This memorandum also stated that an organizational meeting of the SSS would be held on July 24, 1969.

Meeting of July 24, 1969.—The formal organizational meeting of the SSS was held on July 24, 1969. According to Mr. Virdin's memorandum summarizing the meeting, it was agreed the SSS would begin functioning August 1, 1969. The SSS was to assemble information regarding activist organizations, to analyze the data to determine what action should be taken, and to disseminate the information to the appropriate Compliance Division for field investigation, if necessary. It was made clear at the meeting that the SSS would not take over the function of any Compliance Division activity, but the appropriate division would be expected to take whatever field action was needed.

The memorandum of the meeting states that "this is an extremely important and sensitive matter in which the highest levels of Government are interested and in which at least three congressional committees are currently conducting investigations."² It was also noted at the

² The three Congressional committees apparently included the Senate Government Operations Committee and the House Internal Security Committee; it is not clear what the third committee was. The staff questioned several individuals about the origin and meaning of the phrase "highest levels of government." No one questioned said that he thought this phrase referred to the White House. However, as described in Section III of this report, there was White House interest in the tax treatment of activist organizations and this interest was communicated to at least one IRS employee (Donald O. Virdin) outside the Commissioner's office.

meeting that the Internal Security Division of the Department of Justice and the FBI had many files on organizations of interest to the SSS. The memorandum states that the FBI would be asked to furnish data to the SSS, and also indicates that the Senate Committee on Government Operations had information as to the structure, membership, and source of funds of the organizations in question.

It was decided that the SSS should operate on a semi-secret basis. Its activities were to be disclosed "generally only to those persons who need to know." Also, the memorandum states that "We do not want the news media to be alerted to what we are attempting to do or how we are operating because the disclosure of such information might embarrass the Administration or adversely affect the Service operations in this area or those of other Federal agencies or congressional committees."

At (or soon after) the July 24, 1969, meeting the personnel who were to be the "permanent" members of the SSS were named by their divisions.

Early Focus of the SSS

The July 2, 1969, meeting dealt with "ideological organizations." However, the meaning of this term was not clear to the participants, and the minutes of the meeting state "We will attempt to prepare or obtain a definition of the term 'ideological organization.'"³ At the July 8, 1969, meeting, there appeared to be no consensus as to the type of organizations to be reviewed by the SSS. The minutes of that meeting state that the term "ideological organizations" means different things to different people. . . ."

The memorandum of July 18, 1969, noting Mr. Wright's appointment to head the SSS, said the SSS would involve "ideological, militant, subversive, radical, and similar type organizations." However, the minutes of the organizational meeting of July 24, 1969, state that "one of our first problems will be to define and to determine what kind of organization we are interested in." No one interviewed by the staff was able to provide a specific definition of the kind of organizations that the SSS was to deal with. In their interviews, several people formerly associated with the SSS acknowledged this lack of definition.

An additional aspect of the focus of the SSS can also be seen from the memorandum of the meeting of July 24, 1969. The memorandum states that some organizations of interest to the SSS should have filed income tax returns but had not done so and others might be liable for payroll tax returns but had not filed. Additionally, however, the memorandum states that some of the organizations "may be a threat to the security of the United States and one of our principal functions will be to determine the sources of their funds, the names of the contributors, etc." Furthermore, the memorandum states "A review of the files assembled in the National Office on some of these organizations shows communistic infiltration. . . ."

Regular bi-weekly reports written by the SSS for the Assistant Commissioner (Compliance) also include statements that bear on the goals of the SSS.

³ The term "ideological organization" may have been used because this term was used in the July 1, 1969, memorandum from the Assistant Commissioner (Compliance) to Roger V. Barth. (Also see Section X, Previous Ideological Organizations Project.)

The report dated August 22, 1969, states that :

"Even limited review reveals a transaction trail of funds from [taxpayer] to [taxpayer] to [taxpayer] and numerous other organizations where there is ample evidence to indicate tax exempt money has been directed into politics, civil disorders, criminal activities involving organized burglary, arson, fire-bombing, "shakedowns", purchase of firearms, stores of ammunition, and the printing of revolutionary publications, all aimed at destroying the economic, administrative, political, and military powers of the United States Government."

A later report of December 1, 1969, states :

"There appears to be high acclaim that the charter of this committee will lead to enforcement actions needed to help control an insidious threat to the internal security of this country. Obviously, we will receive excellent field cooperation and assistance now that our mission is understood."

Another report of November 2, 1970, states that :

"This matter is cited in this report only for the purpose of suggesting that while revenue potential might not be large in some cases, there are instances where enforcement against flagrant law violators would have some salutary effect in this over-all battle against persons bent on destruction of this government."

There were occasional similar statements in later years.

These statements, and the "guidelines" noted above gave some direction to the SSS. However, it appears from the staff examination that the subjects of SSS files were largely determined by the material available to it. (See section V Special Service Staff Files.) The first material available to the SSS consisted of a list of 77 organizations, which included the 22 organizations in which the Permanent Subcommittee on Investigations was interested, plus the additional 55 organizations included in the memorandum to the field of July 14, 1969. Soon after the formation of the SSS, it began receiving a substantial number of FBI reports and information from other agencies, including the Department of Justice. (See section VI, Coordination With Other Government Units.) As described in later sections of this report, it appears from the staff's investigation that the information received from these and other agencies formed the basis for the SSS day-to-day activities.

Development of the SSS, 1969-1972

Operations, in general.—One of the first actions of the SSS was to review its initial files on organizations for additional individuals and organizations of interest. By August 22, 1969, the SSS had established over 500 files identifying members of a single Black militant organization generally associated with force and violence. By August 29, 1969, the SSS estimated it had 950 files which resulted from a review of only three "basic files." By October 23, 1969, the SSS files totaled 1,750 (1,225 on individuals and 525 on organizations.) This was after approximately twelve weeks of SSS operations.

This growth of files continued. In September 1970 (when Mr. Thrower sent his report on the SSS to Mr. Huston in the White House) the SSS had files on approximately 4,300 individuals and 1,025 organizations.⁴ (Although the SSS had established approximately 5,325 files in its first year of operation, Mr. Thrower stated in his report to Mr. Huston that there were field referrals on only 43 individuals and 26 organizations.)

⁴ A detailed description of the SSS files is included in section V below.

In its initial stages, the SSS also established coordination with a number of other agencies. In August, 1969, the SSS began to receive a significant number of reports from the FBI. On August 26, 1969, the SSS received from the Justice Department a computer print-out listing approximately 10,000 people involved in civil disturbances. By September 5, 1969, the SSS had established contact with and received information from the House Internal Security Committee. SSS employees traveled to the West Coast and established contact with Federal and local law enforcement officials in California by mid-September 1969. In December 1969 the SSS received information from the Senate Subcommittee on Internal Security of the Senate Judiciary Committee, the Naval Investigation Service, and Air Force Intelligence, as well as several other organizations. The SSS received substantial information from some of these organizations, but received little information from others. (The coordination of the SSS with other agencies is described in detail in section VI, Coordination with Other Government Units.)

By late 1969, the standard SSS method of operation had been established. The SSS had established contact with other investigative agencies and congressional committees and was receiving significant amounts of information from them on individuals and organizations. Files were being established by the SSS on individuals and organizations of interest. Social Security numbers and records were being obtained to enable the SSS to check IRS records on file subjects. SSS files and IRS master files were being reviewed to see if there was financial or other information that would warrant tax examination or collection action. Referrals were being made to the field recommending collection or audit action with respect to organizations and individuals. Information was being provided to the Exempt Organizations Branch (Technical) on organizations seeking exempt status. (Each of these areas of the SSS activity are described in detail in later sections of this report.)

Semi-secret operation.—As stated in Mr. Virdin's memorandum of the July 24, 1969, organizational meeting, the SSS was to have a "semi-secretive nature." Its activities generally were to be disclosed only to persons with a "need to know."

In staff interviews it was stated that the "need to know" restriction was approved because it was felt that a number of younger IRS employees were sympathetic to activist organizations and it might be awkward if they discovered the existence of the SSS and its functions. Also, some people indicated that it was believed it would be better for the operation of the SSS if the groups that were under investigation did not know of its existence.

Until April, 1972, the SSS was not included in the Internal Revenue Manual and therefore until that time it operated in semi-secrecy.

Operating space and personnel.—Initially, the SSS operated as a special task force reporting to the Assistant Commissioner (Compliance), with office space in a conference room near Donald Bacon's office. The SSS (Activist Organizations Committee) began with five permanent "committee members": Paul Wright, and one individual representing each of the Audit, Collection, Intelligence, and Alcohol, Tobacco and Firearms Divisions within Compliance. Initially secre-

tarial help usually was borrowed from the Intelligence Division since those persons already had security clearance.⁵ (Generally, the SSS was staffed by eight people, including the chief of the SSS (GS-15), four revenue agents or management analysts (GS-13 or GS-14), one file clerk (GS-9), one processing reviewer (GS-7), and one secretary (GS-6).)

By the end of 1969, the representative from AT&F had left the SSS; the Intelligence Division representative left within six months. A memorandum of October 23, 1969 to Donald Bacon written by Paul Wright indicates these changes were recommended because most of the information received by the SSS related to collection and audit. Soon thereafter, the SSS obtained permanent space, located in the basement of the IRS National Office building. Former SSS personnel indicated to the staff that these facilities were not very satisfactory because of the location and the potential ease of access to the SSS files from an adjoining room. The SSS remained in that space until early 1972.

Development of the SSS, 1972-1973

Commissioner's visit to the SSS.—In his interview, Paul Wright told the staff that Commissioner Johnnie M. Walters and Deputy Commissioner William Loeb visited the basement offices of the SSS around Christmas, 1971, and stayed for several hours learning about the operations of the SSS. This visit was confirmed by Mr. Walters in his interview. It appears that this visit was stimulated because of the pending publication of a story in a national newspaper about the SSS. (See the *New York Times*, January 13, 1972.)

In his staff interview, Mr. Walters said that as a result of the meeting he concluded that the group should not be hidden in the basement with their existence not known by most people in the IRS. Mr. Walters also stated he suspected that the group might be wasting much of its efforts in collecting newspaper articles and gathering information, but he believed the group could be worthwhile.

Changes in location, etc.—In a memorandum of January 5, 1972, to the Assistant Commissioner and the Commissioner, Paul Wright urged that the SSS be given different office space and formal status in the IRS, and that the SSS files be automated. Soon thereafter offices were provided for the SSS on the sixth floor of the Internal Revenue Service building. These offices provided additional security for the SSS files, including the large walk-in vault which now holds the SSS files.

On February 11, 1972, the SSS was transferred from the Compliance Division to the Accounts, Collection, and Taxpayers' Service Division ("ACTS"). This transfer was made because the collection unit had been transferred from Compliance to that Division and most of the SSS field referrals involved taxpayers who had failed to file tax returns—a collection problem.

⁵ In his staff interview, Mr. Wright said that employees who were assigned to work on the SSS were not formally transferred from their other jobs to the SSS, but were placed on temporary assignment. According to several former SSS employees this violated Civil Service Rules and caused problems for those working on the staff because it tended to downgrade the importance of their function. Leon Green and Bernard Meehan told the staff that all assignments to the staff were to be temporary. They also said that the SSS employees were performing the same functions as in their previous assignments (e.g., collection analysis), but on a coordinated basis within a single group rather than separately within each division. Consequently, it was felt that formal transfer was not necessary under the Civil Service Rules.

Inclusion in Manual.—On April 14, 1972, the Internal Revenue Manual was amended to reflect the formal inclusion of the SSS in the Collection Branch.

The amendment to the Manual described the functions of the SSS only in a very general manner. The Manual stated that the SSS serves "as a central information gathering facility consolidating data and making appropriate dissemination of information relevant to tax enforcement." It said that the SSS "accumulates information which involves indications that organizations (and their principals) may ignore or wilfully violate tax or firearms statutes. Further, the SSS "determines, through various sources of information, financial data relative to the funding of certain activities and by analyzing the available data recommends field actions needed" There is also reference in the Manual to accumulation of data involving tax evasion schemes, field referrals, liaison with the Exempt Organization Branch, and liaison with other Federal agencies and Congressional committees.

On April 12, 1973, a supplement to the Internal Revenue Manual was issued to acquaint IRS personnel with the SSS "operation and mission" and "to assure that field offices gave sufficient attention" to referrals by the SSS.

This Manual Supplement described the background and scope of the SSS, the National Office operating procedures regarding the SSS, and field office operating procedures with respect to referrals from the SSS. The Manual Supplement stated that the SSS was a "focal point" for information on persons involved in tax strike, tax resister, and tax protester activities. The Supplement did not mention any activity by the SSS with respect to "extremists," "activists," or similar individuals or organizations. (As described in Section VIII, Field Referrals on War Tax Resisters, the SSS had focused much of its attention on tax protesters. However, it did not appear to focus only on tax resisters in April 1973.)

The Manual Supplement described field referrals by the SSS and stated that the field office "must evaluate the information and decide what investigative techniques should be used." "Highly qualified" personnel were to be assigned to this work. Also, a quarterly report was required in order that the SSS could "monitor and coordinate field assignments" and "evaluate the effectiveness of compliance actions."

Charlottesville conference.—In November 1972, a meeting of all IRS Regional Commissioners (and the Commissioner and his Deputy and Assistants) was held in Charlottesville, Virginia. This was a regular meeting to discuss current problems and developments within the Internal Revenue Service. A portion of this conference was set aside for a discussion of the SSS by the Assistant Commissioner (ACTS). The SSS prepared briefing books for all participants at the conference. The staff was told by a former SSS employee that as a result of this discussion in Charlottesville the SSS received a number of calls from IRS field personnel. (However, the staff also was told that a number of people in the field obtained the wrong impression about the function of the SSS, with many believing the SSS was focusing on organized crime matters.)

Automation.—In mid-1972, a study was begun on automating the SSS files. (The staff understands that an earlier automation study was done in 1970, although nothing came of it.) In September 1972, a report was submitted to Dean Barron, the Assistant Commissioner

(ACTS) recommending automation of the SSS files; the report stated that automation could be done at relatively modest cost.

On January 4, 1973, Mr. Barron sent a memorandum to Deputy Commissioner Ray Harless, setting out a basic plan of automation involving the development of an index for the SSS files and the development of an automation input and monitoring system. On February 9, 1973, Mr. Barron sent another memorandum to Commissioner Walters (through the Deputy Commissioner) recommending automation. On March 12, 1973, Commissioner Walters gave his consent to proceed with the system.⁶

In his staff interview, Burke Willsey (Assistant to Commissioner Alexander) said that in July 1973 he told either Mr. Harless or Mr. Wright that no further steps should be taken with respect to automating the SSS files, and shortly after this all steps with regard to automation were terminated.

Termination of SSS

Meetings of May 30 and June 22, 1973.—Donald C. Alexander was sworn in as Commissioner of Internal Revenue on May 29, 1973. The next day, Mr. Alexander and his Assistant, Burke Willsey, met with the Service personnel having supervisory responsibility over the SSS. A second meeting relating to the SSS was held on June 22, 1973. The meetings were attended by Paul Wright, Chief, Special Service Staff, Ray Harless, the Deputy Commissioner, Dean Barron, the Assistant Commissioner (ACTS), and Harold Snyder, the Director of Collections, National Office.

In their staff interviews, Mr. Alexander and Mr. Willsey said that at these meetings they were told that the SSS directed its attention mainly to individuals and organizations involved in tax strike, tax resister, and tax protester activities. (In their interviews, others who were present at this meeting agreed with these statements.) However, Mr. Willsey told the staff that upon hearing the names of some of the individuals and organizations on whom files were being kept, both he and Mr. Alexander felt that the scope of the SSS had been broader than tax resisters, etc. Mr. Willsey said that, as a consequence, Mr. Alexander told the others at the meetings that the actions of the SSS should be restricted to tax resisters and tax protesters, pursuant to the April 12, 1973, Manual Supplement.

Informal IRS investigation.—After the initial May 30, 1973, meeting, Commissioner Alexander asked Mr. Willsey to conduct an informal investigation of the past and present operations of the SSS, including any White House contacts. Mr. Willsey said in his staff interview, that his investigation consisted of several conversations with Paul Wright regarding the past and future operations of the SSS and the examination of a number of illustrative files selected by Mr. Wright.

In a memorandum to Mr. Alexander dated June 22, 1973, Mr. Willsey said that the SSS was devoting too much time to radical organizations and that inquiries regarding the tax compliance of these groups could be dealt with satisfactorily by a slight modification of programs predating the establishment of the SSS. Mr. Willsey stated that if the April 12, 1973, Manual Supplement were strictly complied

⁶ On the memorandum with Commissioner Walters' approval a note appears that this matter had been discussed with and approved by Deputy Secretary Simon and General Counsel Pierce.

with the SSS would not maintain files containing materials unrelated to tax compliance. Mr. Willsey's memorandum suggested another meeting with SSS supervisory personnel for the purpose of discussing the direction which the SSS was to take. On that same day, Messrs. Alexander and Willsey had their second meeting with the IRS personnel named above.

Publication of the "Flynn Memorandum".—In its August 13, 1973, issue, which was distributed starting August 6, 1973, *Time* magazine published the contents of the so-called "Flynn Memorandum". This is a December 18, 1972, memorandum from John Flynn, Regional Commissioner, to all District Directors in the North Atlantic Region. The memorandum provided background on the information collected by and the objectives of the SSS. The Flynn Memorandum is almost identical to a memorandum prepared by the SSS which was distributed at the November 1972 meeting of Regional Commissioners at Charlottesville, Virginia (described above). Among other things, the Flynn Memorandum stated that the SSS was gathering information about "Violent Groups" advocating such things as arson, firebombing, etc., and "Non-Violent Groups" who participated in activities such as peaceful demonstrations, burning of draft cards, and the organization and attendance of rock festivals.

Mr. Alexander said in his staff interview that because of the *Time* article, he asked Mr. Flynn to explain the origins of the memorandum.⁷ Mr. Alexander said that he was told that the memorandum was, in fact, a slightly altered version of the memorandum prepared by the SSS for the Charlottesville conference.

Decision to disband the Special Service Staff.—In his interview, Mr. Alexander said that he viewed the thinking that went into the Flynn Memorandum "so antithetical to the proper conduct of . . . tax administration" that, upon learning of its National Office origin, he decided to disband the SSS. On August 9, 1973, the Internal Revenue Service issued a press release that stated that after a two-month study, it was decided that the SSS "will be disbanded", but that the IRS would continue to pay close attention to tax rebels. The release noted that the political or social views of any taxpayer were irrelevant to taxation. On August 13, 1973, Manual Supplements were issued abolishing the various functions of the SSS.

Phaseout of Operations of SSS

Task Force—transitional guidelines.—On August 15, 1973, a meeting was held to discuss the phaseout of the SSS. The results of the meeting are contained in an unsigned "Memorandum of Understanding," dated August 15, 1973. Under the guidelines of this memorandum, a task force would be formed to recommend actions to be taken for the orderly phaseout of the SSS and its files. The SSS would continue to receive FBI reports and review them for possible dissemination to other areas, such as Inspection and Intelligence. Mr. Willsey and Mr. Wright would meet with FBI and Congressional contacts to arrange continued liaison and the receipt of information. SSS files that warranted no further action would be "selected out" and retained only for

⁷ Mr. Alexander and Mr. Willsey said in their staff interviews that the Flynn Memorandum had been discussed in the May 30 and June 22 meetings, but that they were not told that the memorandum had its origins in the National Office. On the other hand, on August 7, 1973, memorandum to Mr. Alexander, Mr. Wright said that Mr. Alexander had been adequately briefed about the Flynn Memorandum and its origin at the May and June meetings.

subsequent review by Congressional committees investigating the SSS. No cases would be assigned to the field from the date of the memorandum, with future assignment procedures to be considered by the task force.

Task force recommendations.—The task force met in August and September, 1973, ultimately making a "Task Force Recommendations" report. The two main points to which this report was addressed were the disposition of the SSS files, and the divisions to which certain of the former functions of the SSS would be reassigned.

The task force recommended that SSS files indicating audit or collection potential should be sent to the appropriate districts, and that there should be no special reporting on these cases to the National Office. With respect to field referrals, the report recommended that the field should decide the appropriate action. The report also noted that the referral of files by the Exempt Organizations Branch to the SSS had been terminated. In addition, it was recommended that all classified and unclassified intelligence material should be destroyed after the current files were either selected out or referred to field offices for appropriate action.

The report additionally stated that "most of the functions performed by the SSS could be assumed by the Intelligence Division." Therefore, the report recommended that such functions as liaison with the FBI and other information-gathering governmental units should be centralized in the Intelligence Division, which would integrate the data accumulated into its tape program.

This report was submitted to and reviewed by Burke Willsey. Mr. Willsey said in his staff interview that he felt the report had over-assessed the utility of the SSS file information for the other divisions of the National Office and the district offices. He said that the Intelligence Division indicated that they were not interested in receiving the SSS files. Mr. Willsey told the staff further that he then orally instructed Mr. Wright that the files were to be retained in the SSS vault and not transferred to any other division.

FBI reports.—Special Service Staff records reflect that between August 9, 1973, the date of the press release announcing the disbanding of the SSS and September 30, 1973, the SSS received 23 unclassified and 7 classified FBI reports. Mr. Willsey and Mr. Wright informed the staff that they requested the FBI, in late September, 1973, to send its reports directly to the Intelligence Division. Notwithstanding this, 19 unclassified and 2 classified FBI reports were received in October and November of 1973. (The staff was told by the FBI that Mr. Willsey had told the FBI to stop sending reports to the SSS, and that this direction was conveyed to the responsible FBI people. However, the staff was told that some reports may have slipped by. This may have happened because there were a number of people in the FBI involved in the dissemination of information to the SSS.) The staff was informed by a former SSS employee that these reports were placed in the SSS files. One report was received after November 30, 1973, and it was sent to the Intelligence Division.

Congressional liaison.—Mr. Willsey informed the staff that subsequent to August 9, 1973, no liaison was established with any Congressional committees to acquire investigative-type information, his feeling being that any information derived from these sources would be vague and peripheral.

"Selecting-Out" and "Selecting-In" of files.—The phaseout process, pursuant to the task force report, involved reviewing all SSS files to cull out ("select out") those that had no further value. Each "selected-out" file was set aside and marked, and the index card corresponding to each "selected-out" file was marked with a diagonal line. In a November 5, 1973, memorandum, Mr. Wright reported that 78 percent of the files were selected-out, with the other 22 percent considered as having collection or audit potential. Thus, 2,554 files out of a total of 11,458 were considered to have collection or audit potential. Of the 2,554 "selected-in" cases, it was estimated that 95 percent were collection cases, representing nonfiling of individual and corporate income tax returns and payroll tax returns. Mr. Wright's memorandum further stated that the "selected-in" files would be sent to the district offices for necessary action.

Mr. Alexander and Mr. Willsey said in their staff interviews that they did not oversee the file review, planning to wait until the completion of the review, at which time they would discuss the matter with Mr. Wright and make final decisions as to the disposition of the files.

"War Tax Resister" field referrals.—Between November 5, 1973 (the date of the status memorandum from Mr. Wright noted above) and December 20, 1973, approximately 230 field referrals were made with respect to individuals and groups apparently falling within the "war tax resister" category. (These referrals are described in section VIII, Field Referrals on War Tax Resisters.)

Final report.—In a December 20, 1973, memorandum designated "Final Report—Phaseout of Special Service Staff", Mr. Wright stated that there had been a further culling out of the "selected-in" files resulting in a reduction of the number of files which might be referred to the field, and that the files "have been assigned to the appropriate district offices for whatever action is deemed advisable." The memorandum further stated that each "Assistant Regional Commissioner (ACTS) has been furnished with names and abstracts of the cases forwarded to the district offices in that particular region."

Notwithstanding the statements that the "selected-in" files had been referred to the field, Mr. Willsey told the staff that (other than the lists of "war tax resisters" described in section VIII) no files were referred to any of the district offices after August 9, 1973. This was confirmed by other IRS personnel in staff interviews. In addition, they told the staff that none of the SSS files have been transferred to any division of the National Office, but, instead, are still deposited in the vault of the former Special Service Staff. The staff's examination of the files has not indicated any contrary evidence.

Ultimate disposition of files.—Testifying before the Subcommittee on Foundations of the Senate Committee on Finance on November 25, 1974, Commissioner Alexander stated that upon the completion of the various investigations of the SSS, he will seek permission to destroy all the SSS files.

V. SPECIAL SERVICE STAFF FILES

Summary

The SSS began with the names of 77 organizations; by the time it was disbanded in 1973 there was a total of 11,458 SSS files on 8,585 individuals and 2,873 organizations. The subjects of these files included organizations and individuals with widely varying points of view, from all parts of the country and from many vocational and economic groups.

Based on a random sample of the files examined by the staff, approximately 41 percent of the SSS files are on Black (and ethnic) organizations associated with violence, confrontations and civil disturbances (as well as some not associated with such activities). The SSS files were not limited to these organizations but included their leaders, employees and members as well; (this is the case for each of the categories described in this paragraph). Approximately 15 percent of the SSS files are on what are generally considered to be White "right-wing extremist" and "racist" organizations and individuals, advocating the use of force and violence. Approximately 18 percent of the files are on antiwar organizations and individuals. Approximately 11 percent of the files are on "new left" radical groups and individuals. There are also files on "liberal establishment" organizations such as church groups, etc.

There appears to have been no clearly defined criteria for the SSS to use in selecting a file subject. Instead, it appears that, for the most part, files were established based on the source material available to the SSS. The primary sources of names for the SSS files were the Department of Justice civil disturbance list and the FBI reports sent to the SSS. The SSS received more than 11,000 FBI reports in four years. At times, particularly in the early days of the SSS, a significant portion of time was used to cope with (and set up files based on) FBI reports.

The Department of Justice (through FBI reports and the civil disturbance lists) appears to have provided over half of the subjects for the SSS files. Other sources included Congressional committees (3 percent), the IRS (11 percent), and books and publications (12 percent). The SSS also received information from an informant in the Washington, D.C., area.

The SSS files vary considerably in size and contents. Many are one-half inch to 1 inch thick (in 8½ by 11 inch manila folders) and consist largely of FBI reports. The files also include SSS worksheets, IRS master file computer printouts, newspaper clippings and miscellaneous information. The FBI reports often contain information on specific meetings or incidents involving an individual or organization; they also often contain background and biographical information on individuals. The FBI reports (which furnish the bulk of the SSS files) contain little information directly relevant to the administration

of the tax laws, although they sometimes include information on employment and assets (such as vehicles and firearms). In a few cases the FBI reports include information on specific financial transactions.

Files Examined

According to records of the SSS, it had 11,458 total files with 8,585 files on individuals and 2,873 on organizations. The staff examined samples of these files to focus on different types of subjects covered by the files. To develop an overall picture of the files, the staff examined a one percent random sample of the entire group, both individuals and organizations. In addition, the staff examined a 10 percent random sample of the "war tax resister" files. A number of cases of special interest also were examined, including the SSS files on the "original" organizations on which files were established, and files on some prominent individuals and organizations. Also, in the course of reviewing field referrals (see section VII. Field Referrals), the SSS files, as well as the field files, were examined. SSS files also were examined for cases referred to the SSS from the Exempt Organizations Branch (Technical). In all, over 500 SSS files were examined by the staff.

SSS Criteria for Establishing Files

The documents regarding the formation of the SSS indicate that it was directed to collect information and coordinate IRS activities on organizations and individuals generally described as "ideological, militant, subversive, radical, and similar type" organizations. From the documents reviewed and the staff interviews, it appears that these terms were not well defined and therefore the criteria used by SSS employees for establishing files were not defined. In the staff interviews, no person formerly associated with the SSS was able to give a relatively precise description of the type of groups the SSS was to focus on.¹

It appears from staff interviews that the SSS was to start with the 22 organizations in which the Permanent Subcommittee on Investigations was interested and the 55 organizations that were the subject of an IRS field inquiry on July 14, 1969. However, the SSS files rapidly increased beyond these organizations.

It appears that in practice the SSS often decided to set up a file based upon the information it had on hand. For example, it appears that the SSS set up a file on every individual or organization which was the subject of an FBI report sent to the SSS. The SSS received a large number of FBI reports (over 11,000). (In their staff interviews, several former SSS employees referred to the FBI reports received by the SSS as "a spigot under Niagara Falls," and coming in by the "armload" and by the "pound.") Mr. Bacon and Mr. Wright indicated in their staff interviews, that they believed that the SSS had no authority to destroy FBI reports it received. Since the SSS personnel felt that they could not destroy the FBI reports received, and since large numbers of reports were received, the SSS apparently devoted substantial time coping with these reports, and in the process, setting up files to cover them.

¹ While there was no discussion of individuals in the minutes of the organizational meeting of the SSS, in a letter of August 8, 1969, to the FBI, Donald Bacon indicated the SSS was interested in information relating to "predominantly dissident or extremist" organizations, "and/or people prominently identified" with them.

Additionally, a substantial number of files were set up on the basis of the Department of Justice "civil disobedience" lists (see section VI, Coordination with other Government Units). In this case, SSS clerks apparently went through the list of names in a systematic manner, setting up files on the individuals in the civil disobedience lists. In this case as well, the criterion for setting up files appeared to be the practical one of using the information that was available.

Generally, neither the documents nor the staff interviews have indicated that there was a directive for the SSS to focus on any particular taxpayers within the broad category of "extremist." However, the staff was told that when the SSS first started, it was to focus initially on a Black militant organization and a "radical" left-wing organization. (This is generally confirmed by early SSS reports.)

Subjects of the SSS Files

The individuals and organizations who are subjects of the SSS files cover a broad spectrum of associations and vocational categories.

The largest portion of the SSS files are on Black organizations and associated individuals. The SSS has a substantial number of files on Black organizations that advocate violence to achieve their goals. (Additionally, there are SSS files on the leaders of these organizations, on individuals closely associated with the leaders, on employees of the organizations, and files on current and former members of the organizations.)

The SSS files included Black (and ethnic) organizations associated with confrontation but which do not necessarily advocate violence. The organization (or its leaders) may be associated with confrontation because of "demands" made on the community or on business organizations, or associated with civil disobedience or disturbances. The SSS also maintained files on employees, and members of these organizations.

The SSS also maintained files on Black organizations generally not associated with confrontation, civil disobedience, or disturbances. In this case, also, there were files on the leaders of the organizations, their employees, and members.

Approximately 41 percent of the random sample of files examined by the staff apparently involved the types of organizations and individuals described above.

There are a number of SSS files on White organizations generally considered "right-wing extremist" and "racist," which advocate the use of violence, firearms, and explosives. Additionally, there were SSS files on the leaders and members of these organizations. Approximately 15 percent of the random sample of files examined by the staff were on these types of individuals and organizations.

A significant part of the SSS files dealt with individuals and organizations which may be considered as anti-war. Again, there were files on leaders, employees, and members of these organizations. Approximately 18 percent of the random sample of files examined by the staff were on anti-war organizations and individuals. (In this category, the files included some public figures such as entertainers and politicians who have publicly expressed anti-war views.)

White radical "new left" organizations are included in the SSS

files, along with their leaders and members. Approximately 11 percent of the random sample of files examined by the staff were in this category.

The SSS files included some "liberal establishment" organizations, such as a nationwide legal organization and a political caucus. Also, these were files on what may be considered by some as "liberal" church or religious groups. Some of these groups apparently were included because of their association with anti-war or civil rights activities. Additionally, there were files on some universities and colleges which have been the scenes of civil disturbances or where "extremist" speakers have appeared.

The staff has determined that the SSS had files on five present or former members of Congress. Information supplied by the IRS also indicates that there were files on 25 of the individuals who were on the White House "enemies lists."

Of the 11,458 files, approximately 800 involved tax protesters. Generally, these are people who have publicly stated that they refused or will refuse to pay their Federal tax obligations because they do not believe that the money is being properly used.

Sources of Names and Information for SSS Files

In general.—The names of the individuals and organizations on whom files were kept by the SSS generally came from four major sources: other Federal agencies, congressional committees, other units of the Internal Revenue Service, and books and publications.

The staff's review of a random sample of SSS files indicated that the sources of names for establishing files on individuals and organizations were as follows:

	<i>Percent</i>
Department of Justice—	
Federal Bureau of Investigation-----	43
"Civil disturbance" lists-----	8
Congressional committees-----	3
Other units of the IRS-----	11
Books and publications-----	12
Other sources or no source indicated-----	23
Total -----	100

However, often the source was not indicated by the SSS file or may have been incorrectly indicated. This table consequently is only a general indication of the file sources.

A 1972 Internal Audit study² of the SSS reported file sources as follows:

	<i>Percent</i>
Federal Bureau of Investigation-----	55
Department of Justice (other than FBI)-----	7
Books, periodicals, newspapers-----	18
All other sources-----	20
Total -----	100

Source of "original" files.—The SSS began with the names of 77 organizations. These were soon expanded by another 22, to give a total of 99 "original" organizations. However, the SSS did not focus only

² Internal Audit is a division of the IRS, under the Assistant Commissioner (Inspection), which reviews IRS operations to insure that management level responsibilities are efficiently discharged. Its 1972 study covered SSS operations from August 5, 1969, to June 1, 1972.

on organizations; before the end of its first month of operations, the SSS files on individuals apparently had grown to well over five times the number of files on organizations. This pattern continued through August 1973, when the SSS was disbanded.

There were three basic sources for these 99 organizations: an inquiry by the Permanent Subcommittee on Investigations of the Senate Government Operations Committee, a memorandum to the field of July 14, 1969, from the Assistant Commissioner (Compliance), and a memorandum to the field of October 8, 1969, from the Assistant Commissioner (Compliance).

The first 22 organizations were included in a request for tax information by the Subcommittee on Investigations on March 5, 1969.³ In preparing to respond to this request, the Assistant Commissioner (Compliance) gathered information on these 22 organizations from all field offices before the SSS was established. The Subcommittee on Investigations did not ask the Service to compile this information in its National Office, but Leon Green, in his staff interview, said that this was done because the Subcommittee activities were "heating up" and it was felt that there should be more information available in the National Office.

Subsequently, the office of the Assistant Commissioner (Compliance) compiled a list of 55 additional "extremist" organizations and on July 14, 1969, sent a memorandum to the Regional Commissioners asking for information they had on these organizations. Information supplied by the IRS shows that the names of these organizations came primarily from the Regional Commissioner, Central Region, and the National Office Audit Division in response to previous requests for information by the Assistant Commissioner (Compliance).

On October 8, 1969, after the SSS had been formed, the Assistant Commissioner (Compliance) asked the Regional Commissioners for information on a second list of 22 organizations. According to the IRS, the names for this list came primarily from a memorandum from an IRS special agent in the Los Angeles district office. (The FBI also was the source for the names of some of these organizations.)

In all these cases, the SSS ultimately received the information provided to the Assistant Commissioner (Compliance) and created files on all of these organizations.

FBI.—The SSS established liaison with a number of other Federal agencies involved in intelligence gathering. (For a more complete description of this liaison, see section VI, Coordination With Other Government Agencies.) Of these agencies, the Federal Bureau of Investigation and the Inter-Divisional Information Unit of the Department of Justice provided the most information.

According to a log kept by the SSS, it received 11,818 separate reports from the FBI during the period from October 27, 1969, through November 30, 1973. (Other information in the SSS files indicates that the SSS received 700–800 FBI reports before October 27, 1969.)

The staff was told by a former SSS employee that if the SSS did not already have a file on the individual or organization which was the

³ This request was made under section 6103(a) of the Internal Revenue Code and Treas. Reg. § 301.6103(a)–101 and pursuant to Executive Order No. 11454, dated February 7, 1969.

subject of an FBI report, it would set up a file upon receiving the report. In reviewing the files, it also appeared that if an individual or organization was named in an FBI report (but was not the subject of the report) the SSS would sometimes begin a file on this individual or organization. Apparently, a file was not always begun on persons named in FBI reports, and whether this occurred depended upon the decision of the SSS person reviewing the report. (However, there appeared to be no guidelines for an SSS employee to follow in these cases.)

In June 1970, the FBI provided the SSS with a list of approximately 2,300 organizations categorized as "Old Left, New Left and Right-Wing." This list appeared to be the source for a small number of files. In June 1971, the FBI also gave the SSS a list of underground newspapers, which was used to initiate some of the 148 files the SSS kept on these newspapers.

Inter-Divisional Information Unit, Department of Justice.—The SSS also extensively used a computerized alphabetical list of individuals involved in civil disturbances in the United States. The list, called the IDIU list, was prepared by the Inter-Divisional Information Unit of the Justice Department. The SSS first received this list in August 1969 when it contained about 10,000 names. In September 1971 a second, up-dated list of about 16,000 names was received.⁴ (See also section VI, Coordination with Other Government Units.)

The SSS reviewed the IDIU list alphabetically to obtain names for the SSS files. According to a former SSS employee, names were selected from the list only if there was a birthdate provided, which the SSS could use to obtain the individual's Social Security number. (See section VI below.) This number was necessary to obtain information regarding the individual's income and income tax records from IRS files, and from the Social Security Administration. The SSS had not completed its review of this list by the time its operations were terminated in August 1973.⁵

The Justice Department also provided the SSS with a list of approximately 675 organizations for which abbreviations were used in its IDIU listing. This list apparently was used as a source of names for a few of the SSS files.

The SSS also established files on "national security cases" involved in requests for tax information from the Justice Department. (See section VI, below.) The IRS apparently received 99 such requests during 1969-1973 and the SSS had files on all but three of the individuals and organizations involved in these requests.

Other agencies.—The SSS received information from some other Federal agencies with which it had established contact and from several State and local law enforcement agencies. (See section VI, below.) The staff examination of a random sample of SSS files indicated that few files were established based on this information. It appears, from staff interviews, that the SSS made little use of this information.

Informant's "intelligence digests".—The staff was told by a former

⁴ This list is described in *Federal Data Banks and Constitutional Rights*, Staff of Subcommittee on Constitutional Rights, Senate Committee on the Judiciary, 93d Cong., 2d Sess., vol. 4, at 2208 et. seq. (Comm. Print 1974).

⁵ The staff's random sample indicated approximately 8 percent of the files were established from the IDIU list. The IRS Internal Audit study indicated approximately 7 percent of the files were based on the IDIU list.

member of the SSS staff that from mid-1970 until August 1973 the SSS received bi-weekly "intelligence digest" reports from an informant. This informant was active in organizations which engaged in demonstrations in the Washington, D.C. area. As a result of this activity, as well as from public sources (such as publications, etc.) the informant prepared a "digest" of information on these organizations. A former SSS staff member said he was introduced to the informant in mid-1970 by a member of the Alcohol, Tobacco, and Firearms Division (AT&F) and from then until August 1973 the informant supplied the SSS with copies of the bi-weekly reports he supplied to AT&F and other investigative agencies interested in this type of intelligence. The staff was told that the informant was not paid by the SSS but was apparently compensated by one of the other receiving agencies.⁶ Although the informant was considered reliable, the staff was informed that the reports provided little tax-related information since they dealt largely with demonstrations and other activities of organizations. The staff was informed that these reports were returned to the informant from the SSS files and the relationship was terminated after the SSS was disbanded in 1973. The staff investigation identified one file which may have been initiated because of information supplied by this informant.

Congressional committees.—The SSS obtained names and other information for its files from several congressional committees. According to staff interviews, the files of the House Internal Security Committee were used extensively for information. According to a former SSS employee, the SSS also obtained information from the files of the Permanent Subcommittee on Investigations of the Senate Government Operations Committee and the Internal Security Subcommittee of the Senate Judiciary Committee. (However, the Chief Investigator of the Permanent Subcommittee said the SSS did not use the Subcommittee files.) In addition, the SSS reviewed public testimony given during 1967–1969 before the Permanent Subcommittee on Investigations dealing with riots, civil and criminal disorders.⁷ (These congressional contacts are detailed in section VI of this report.) Congressional sources were used both to obtain names for establishing files and to acquire additional information where a file was already in existence.

Books and publications.—The SSS subscribed to or purchased on a regular basis approximately 20 publications, and it acquired on a short-term or intermittent basis approximately 10 additional publications. Magazines acquired included *Time*, *The Humanist*, *New Guard*, and *The Plain Truth*. Newsletters and periodic reports which were purchased included *Statecraft*, *Tupart Monthly Reports*, *Osth Information Service*, *The Pink Sheet on the Left*, and *Washington Observer Newsletter*. Similarly, a variety of newspapers were acquired. These included *The Washington Post*, *The Washington Star*, *The New York Times*, and other newspapers such as *The Militant*, *The Guardian*, *Vortex*, *Peoples World*, *Daily World*, *Human Events*, *American Report*, *Los Angeles Free Press*, *Christian Crusade Weekly*, and *The Mole*.

⁶ The staff has found no record of any disbursements by the SSS to pay informants from the "imprest fund" available to it for confidential expenditures.

⁷ *Hearings on Riots, Civil and Criminal Disorders Before the Permanent Subcomm. on Investigations of the Senate Comm. on Government Operations*, 90th Cong., 1st and 2nd Sess., 91st Cong., 1st Sess. (1967, 1968, 1969).

Books used by the SSS as source materials included *The Riot Makers*,⁸ *The Radical Left and Far Right*,⁹ and *58 Key Influences on the American Right*.¹⁰ The SSS also made extensive use of what was called the "Wilcox compilation," a listing of approximately 4,000 organizations and individuals entitled "Guide to the American Left."¹¹

Since the SSS operated semi-secretly from August 1969 to April 1972, materials about organizations were acquired using assumed names, and were obtained by mail. Post office boxes were used for deliveries and payments were made with money orders. Employees of the SSS who made such payments were reimbursed from a special "imprest fund" used by the Internal Revenue Service for confidential expenditures.¹² The SSS was authorized to spend \$100-\$300 per semiannual period from this fund.

Internal Revenue Service.—SSS files also were established on the basis of information received from other units of the IRS. This information came largely from IRS field offices and Service Centers and concerned primarily tax resisters and underground newspapers.¹³

These files also include some of the "original" organizations as well as files based on information received by another division of the IRS from an outside party or agency.

The Exempt Organizations Branch (Technical) referred approximately 153 cases to the SSS. The SSS indicated an interest in 80 of these cases. (See section IX below.)

The Alcohol, Tobacco and Firearms (AT&F) Division was an agency of the IRS until July 1, 1972, when it became a separate bureau of the Treasury Department. For the first four months of the operation of the SSS, AT&F was represented by an AT&F investigator who had extensive experience regarding militant organizations. The staff was told that the AT&F representative supplied the SSS with memoranda and lists of organizations and related individuals. The staff file reviews indicate that the SSS established files on some of these organizations and individuals. After the AT&F representative left the SSS on December 15, 1969, AT&F provided little information to the SSS.

Growth of Files

The SSS started on August 5, 1969, with a list of 77 organizations. An SSS report of August 22, 1969, stated that the SSS had established over 500 files on members of a single Black militant organization generally associated with advocating the use of force and violence. A report of August 28, 1969, states that the SSS estimated it had established 950 case files. The status report sent to Mr. Huston at the White House by Commissioner Thrower stated that by September 19, 1970, the SSS had established files on 1,025 organizations and 4,300 individuals. According to an Internal Audit Report, the number of SSS files had grown to 9,800 (7,300 individuals and 2,500 organizations) by June 1, 1972. The SSS had 11,458 files on 8,585 individuals and 2,873 organizations when it was disbanded in August 1973.

⁸ E. H. Methvin (Arlington House, 1970).

⁹ McCuen and Bender (Greenbower Press, 1970).

¹⁰ P. B. Solara (Polifox Press, 1971).

¹¹ C. M. Wilcox (U.S. Directory Service, published annually).

¹² All expenditures (not just SSS expenditures) used by the IRS to buy information are now being audited by the General Accounting Office as the agent of the Joint Committee.

¹³ The SSS activity concerning tax resisters is discussed in greater detail in section VIII of this report.

For the most part, the growth in the volume of files, particularly in the early months of SSS operations, appears to be attributable to two factors. First, the SSS began receiving large quantities of FBI reports almost immediately. Second, shortly after the SSS began it acquired a substantial amount of information on a large number of individuals and organizations associated with several well-known "extremist" organizations, plus a list of "extremist" donees of a charitable foundation. Several people interviewed by the staff said that this initial flood of information caused the SSS to devote almost all of its time during the first several months to establishing new files (and generally prevented it from reviewing these files). There seems to have been an over-abundance of files during the life of the SSS, since the staff examination indicates that the SSS did not investigate tax compliance in a substantial number of cases.¹⁴

Maintenance of Files

The SSS files are maintained as separate looseleaf manila folders containing documents and other information on the specific individual or organization that is the subject of each file. The files on individuals were maintained alphabetically, and the files on organizations were maintained separately, also in alphabetical order. However, in two instances the files on organizations were kept separate from the other files. One case was that of a Black militant group that advocated the use of violence; the SSS files on this group occupy one entire large file cabinet. The other organization is generally considered as a White racist group that advocates the use of violence; the SSS files on this group occupy one file drawer in a separate cabinet. (Most of the files of these two particular organizations consist of FBI reports.)

The SSS also maintained an alphabetical card index system, with individual and organization cards filed separately. However, in a number of instances there was an index card on a subject, but no file (the card would refer to a file under another name in which the subject's name was mentioned).

It was intended that the files be categorized with a letter notation to indicate the activity status of each file.¹⁵ However, this notation system was not always used and, when used, was not used uniformly.

The SSS files were reviewed by the SSS staff at two different times in 1973. In this review cases of no further value were "selected out." (See section IV, Development of the Special Service Staff.)

The SSS subject files are maintained in 10 large filing cabinets, occupying approximately 150 linear feet. (In addition, there are approximately 25 linear feet of administrative files and research materials.) The files are maintained in a walk-in fireproof vault, which is secured with a combination lock.

Contents of Files

The files examined by the staff varied a great deal with respect to size and contents. Some contained only a single newspaper clipping or a document. Many were approximately one-half inch to one inch thick. Others were two to three inches thick. As noted above, the file on one organization filled a large five-drawer file cabinet.

¹⁴ The August 16, 1972, Internal Audit Report also noted this.

¹⁵ An "A" notation would indicate that the file had been set up but that no investigation or development of the file had begun; a "B" notation would indicate that further development of the file had occurred; a "C" notation would indicate the case had been referred to the field; and a "D" notation would indicate that the case had been closed.

The SSS used a "case review" sheet to summarize information contained in each file and the SSS activities which had occurred concerning the file. The "case review" was designed to include information identifying the taxpayer (birth date, address, taxpayer identifying number, affiliation), cross-references to other files and the results of a review by an SSS audit or collection analyst. However, the case review sheet seldom reflected all of the information included in a file and in some cases there was no entry other than the subject's name. Almost all files reviewed by the staff had a case review sheet.

The SSS had also designed a four-part "work sheet" to be used to summarize information for cases referred to the field. There were four blocks on the work sheet to be used separately by the Audit, Intelligence, Collection and AT&F Division representatives to summarize data about the taxpayer and action to be taken by the field in their respective areas of activity. Apparently, the form was used until late 1971, when the SSS began using a narrative statement for its field referrals.

In addition to the case review sheet, the documents most frequently found in the files were FBI reports. Over 35 percent of the random sample of files examined by the Joint Committee staff contained FBI reports. The FBI reports were of two basic types. The first type would give details of a meeting or incident involving an individual or an organization. The second type, sometimes supplied in conjunction with the first type, would provide background and biographical information on an organization or individual. For individuals, this type of report would provide the subject's description, address, place and date of birth, occupation, place of employment, criminal record (if any) and activities relevant to the FBI's interest in this individual. A similar report on an organization would discuss its orientation, activities, funding, organizers, officers, and membership.

The FBI reports in the SSS files seldom seemed to contain direct financial information or other information relevant to the subject's responsibilities under the Federal tax laws. However, the FBI files sometimes would contain information on an individual's employment (whether he was employed, by whom, the employer's address, etc.). Also, these reports occasionally would include information on assets owned by an individual (such as a vehicle or a firearm). In a few cases there were reports on specific financial transactions engaged in by individuals. Additionally, as noted above (see section I, Introduction), information on the activities of an exempt organization discussed in an FBI report could be relevant to whether the organization was entitled to an exemption.

Other documents often found in the SSS files contained information regarding the subject's history of filing tax returns and paying taxes. Approximately 20 percent of the random sample of files examined by the staff contained such information. Generally, this information would include computer print-outs from the IRS Individual Master File, Business Master File, or Exempt Organizations Master File. Information supplied by the IRS indicates that the SSS made approximately 5,000 requests for searches of the master files. Also, frequently information was received by the SSS from the Social Security Administration supplying an individual's Social Security number or supplying information concerning the wages of an individual subject

to Social Security taxes. (See section VI, Coordination with other Government Units.)

The business, individual, and exempt organizations master file print-outs contain information on which returns have been filed, when they were filed, the amount of a tax paid, whether the taxpayer had been audited, and any tax balances payable by or to the taxpayer. For individuals, the master file print-outs also include amounts of income reported and deductions claimed for each year and the number of exemptions claimed.

The SSS files occasionally contained other financial information, such as summaries of subjects' checking account transactions, information relating to specific financial transactions, and contribution lists of organizations. This information was obtained from a variety of sources, including congressional committee files, reports of IRS field personnel (such as an Intelligence Division report on an organization and its members), referrals of congressional and public complaints from the National Office, and FBI reports. The files also occasionally contained tax returns. The SSS records show that tax returns were requested on 86 individuals and 120 organizations.

Many of the files contained clippings from periodicals. The SSS files also contained correspondence, notes and memoranda concerning referrals by the SSS to the field and reports from the field to the SSS.

VI. COORDINATION WITH OTHER GOVERNMENT UNITS

Summary

The SSS received information from a number of other Federal agencies, from congressional committees, and from some State and local agencies. As described in the section on Special Service Staff files, this information was used by the SSS as a source for establishing files and to augment previously-established files.

Many of the SSS contacts with other agencies apparently were initially made on an informal basis by two SSS employees who had previously established their own associations in the intelligence community. (One of these employees was detailed to the SSS from the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service.¹ The other employee had been detailed from the Service's Intelligence Division.) Formal contact also was established with other agencies; however, the initial informal contact of these employees seems to have been an important element in the SSS coordination with other agencies and congressional committees.

The most important sources of information for the SSS were the FBI and the Inter-Divisional Information Unit of the Department of Justice. Also, the Social Security Administration was of substantial importance (although, of course, the SSS did not receive "intelligence-type" information from Social Security). The Departments of Army, Navy, and Air Force also provided the SSS with information. Other Federal and State agencies also aided the SSS, although to a much smaller extent.

With respect to congressional committees, the House Internal Security Committee provided a significant amount of information to the SSS. The Subcommittee on Internal Security of the Senate Judiciary Committee and the Permanent Subcommittee on Investigations of the Senate Government Operations Committee also provided some information to the SSS.

Most of this coordination with other government units involved the SSS receiving information. In addition, some information was provided by the SSS to other government agencies and to congressional committees.

Information Received by the SSS from Other Federal Agencies

Federal Bureau of Investigation.—FBI reports apparently were the largest single source of information received by the SSS. During the period October 27, 1969, to November 30, 1973, the SSS logged in a total of 11,818 reports received from the FBI on individuals and organizations. Of that total, 6,607 reports were classified (as "confidential", "secret", or "top secret") and the remaining 5,211 were unclassified. Other information in the SSS administrative files indicates that the SSS received 700 to 800 other FBI reports before October 27, 1969.

¹ On July 1, 1972, AT&F became a separate Treasury bureau.

These reports were sent to the SSS both because the FBI decided the SSS would be interested and because of specific requests for reports from the SSS. While most FBI reports went directly to the SSS, a few of these reports were sent by the FBI to another IRS branch, such as the Intelligence Division (which had a preexisting arrangement to receive FBI reports), and these reports were forwarded to the SSS where the receiving branch believed that they were pertinent to the work of the SSS.

On August 8, 1969, Assistant Commissioner (Compliance) Donald Bacon wrote J. Edgar Hoover, Director of the FBI, to request that the SSS be placed on the FBI dissemination list for information relating to "various organizations of predominantly dissident or extremist nature and/or people prominently identified with those organizations." The staff has found no formal reply from Hr. Hoover, but after this letter was sent, the SSS began receiving substantial numbers of FBI reports. According to a letter to the staff from FBI Director Clarence Kelly, the dissemination of the FBI reports to the SSS was approved personally by J. Edgar Hoover. Also, the staff was told that in early August 1969 SSS employees met with IRS personnel to discuss the SSS objectives.

The SSS maintained continuing coordination with the FBI. The staff was told by a former SSS employee that SSS employees often telephoned the FBI for information, and FBI couriers bringing reports were in the SSS offices almost daily.

The SSS files show that it received numerous reports which were sent by the FBI without receiving a request from the SSS for information on the individuals or organizations involved. Paul Wright and Donald Bacon told the staff that they believed that under FBI policy the SSS could not destroy FBI reports which it did not find useful. Therefore, these reports were added to the SSS files. In addition, the SSS frequently requested FBI reports on specific individuals or organizations. The files examined by the staff contain numerous FBI reports that were noted as sent pursuant to an SSS request. It appears that the SSS would request FBI reports on individuals or organizations named in other sources used by the SSS (such as publications, the Justice Department civil disturbance lists, etc.).

According to SSS records, during early June 1970, the SSS received from the FBI a list of approximately 2300 organizations categorized by the FBI as "Old Left," "New Left," and "Right Wing." Additionally, SSS records show that in June 1971, the FBI sent the SSS a list of all known underground newspapers in the United States; an SSS report stated that on receiving this list the SSS made a special examination of these newspapers and their editors.

The FBI also provided the SSS with information about demonstrations scheduled to take place at Internal Revenue Service installations, and the SSS passed this information along to other divisions in the Service. For example, according to a memorandum of March 12, 1970, from Paul Wright to Donald Bacon, the FBI sent the SSS a report regarding demonstrations planned for April 15, 1970, at various IRS offices and installations. Also, in April 1973, the SSS was advised of planned demonstrations at the Internal Revenue Service National Office.

Inter-Divisional Information Unit, Department of Justice.—The Department of Justice Inter-Divisional Information Unit² (IDIU) furnished the SSS a computerized list of individuals considered to have a potential for civil disturbance. This list was called the "Subject Data" list by the Department of Justice. According to former SSS employees, an SSS clerk went through this list alphabetically, and prepared files on individuals named in it if the SSS did not already have a file on that person. (See section V.)

The Subject Data list provided the SSS with the names of individuals who were considered to have a potential for civil disturbance. Also, the list often provided the individual's date of birth, which was vital for the SSS to obtain the individual's Social Security number. Upon obtaining the Social Security number, the SSS could readily check the IRS master files in order to review the individual's tax status.

Another computerized list, called the "Incident Data" list, was also provided to the SSS by the Department of Justice. The Incident Data list dealt with events of civil disturbances (arranged geographically and by date) and, according to a former SSS employee, was used by the SSS more for background information than for establishing specific files.³

In his staff interview, a former SSS analyst said that he learned of the Department of Justice civil disturbance list in talking with employees of the Criminal Division of the Department of Justice. This employee said that he then met informally with IDIU people and asked that copies of the lists be provided the SSS. The SSS records show that the SSS obtained possession of the Subject Data list (containing about 10,000 names) from the Justice Department on August 26, 1969. Additionally, an SSS memorandum stated that on October 9, 1969 an SSS employee was given a copy of the Incident Data list. This memorandum stated that these lists were obtained by the SSS on a "loan basis."

The "loan" of these lists to the SSS seems to have occurred on an informal basis; the staff has not found any correspondence or memoranda between the Internal Revenue Service and the Justice Department regarding the transfer of this material. James Devine (formerly head of the IDIU) told the staff that he did not recall who authorized providing the IDIU civil disturbance lists to the SSS. Jerris Leonard (formerly Assistant Attorney General, Civil Rights Division, to whom Mr. Devine reported as head of the IDIU) told the staff he did not know that the SSS received a copy of the IDIU list.⁴

The Justice Department also maintained a master computer tape file and master tape format from which the Department of Justice lists were prepared. A draft letter to the Attorney General was prepared within the Service requesting this tape file and format. How-

² Later, part of the Department of Justice Internal Security Division.

³ These lists are described in *Federal Data Banks and Constitutional Rights*, Staff of the Subcomm. on Constitutional Rights, Senate Comm. on the Judiciary, 93d Cong., 2d Sess., vol. 4 at 2208 *et seq.* (Comm. Print 1974).

⁴ In a letter of June 5, 1974, to Senator Sam J. Ervin, Jr., Attorney General William B. Saxbe said that "with the exception of the printout loaned to the Internal Revenue Service, there is to our knowledge no other known instance of dissemination [of the IDIU lists] outside the Department of Justice. . . ." (However, the staff has been informed that a printout of the lists was given to the Central Intelligence Agency as well.)

ever, it appears that the letter was never sent, and that the SSS did not receive a copy of the tape file or format.

On September 20, 1971, two employees of the SSS obtained from the Department of Justice a revised Subject Data list, which included the names of approximately 16,000 individuals. SSS files were thereafter prepared on the basis of the information contained in the new list. It appears that no revised Incident Data list was ever obtained by the SSS.

Aside from obtaining the civil disturbance lists, the staff has found evidence of relatively little contact between the SSS and the Inter-Divisional Information Unit of the Justice Department. However, after many of the functions of the IDIU were taken over by the Analysis and Evaluation Section of the Internal Security Division, Department of Justice, two employees of the Analysis and Evaluation section met on March 26, 1971, with SSS representatives. At this meeting the functions of the two organizations were explained and possibilities of increased cooperation were explored.⁵ The IRS and Justice Department memoranda of that meeting indicate that the Justice Department was to furnish the SSS with a list of radical individuals in which the Justice Department was most interested, but it appears that no list was ever in fact transmitted. The memoranda also indicate the SSS was to furnish information to the Internal Security Division on an informal basis. However, the staff has found no evidence that indicates this was ever done.

In what appears to be an isolated incident, an SSS memorandum states that an SSS employee went to the Internal Security Division during November 1971, to study the information in the Division's files on two taxpayers. The SSS interest in these taxpayers apparently was sparked by a request by the Justice Department for tax information on these taxpayers. (See below for a description of information provided to the Department of Justice.) Eventually, a \$28,818 tax assessment was made against one of the taxpayers, and it appears that this assessment may have been aided by the information obtained by the SSS from the Department of Justice.

Immigration and Naturalization Service, Department of Justice.—In one case, the SSS files indicate that the SSS contacted an employee of the Immigration and Naturalization Service (INS) for information on the United States itinerary of a nonresident taxpayer. The Internal Revenue Service subsequently collected \$13,076 in taxes from this taxpayer's spouse, but the staff could not determine whether the collection was aided by the information supplied by the INS. The staff found no other cases of cooperation between the SSS and the INS.

Bureau of Narcotics and Dangerous Drugs, Department of Justice.—According to SSS records, in late October 1969, SSS staff members met with representatives of the Bureau of Narcotics and Dangerous Drugs and "complete cooperation" was promised. However, the staff has found no information on further coordination between this Bureau and the SSS.

⁵ There was also contact between the Internal Security Division and the SSS regarding "national security cases", described below.

Social Security Administration.—The Social Security Administration was possibly the most practical contact of the SSS in terms of providing information that aided in the collection of taxes. Apparently the SSS began using the Social Security Administration on the suggestion of an SSS employee who previously had obtained information from Social Security while he had worked in the Collection Branch of the IRS. Upon transferring to the SSS, this employee was able to initiate SSS coordination with Social Security by contacting the same Social Security Administration employee he had contacted while working in the Collection Branch.⁶

After identifying an individual and his birth date, the SSS could ask the Social Security Administration for that individual's Social Security number. Also, if it had the individual's Social Security number, the SSS could request the names of that individual's employers and the wages (subject to Social Security taxes) the individual had earned during the previous three calendar years. Additionally, if the SSS had an employer's identification number, it could request for any three-month period the names of the employees of that employer, the Social Security numbers of those employees, and the wages paid each employee by that employer. Counting all three types of requests, SSS records show that the SSS made a total of approximately 3,843 requests for information from the Social Security Administration.

The Subject Data "civil disobedience" list supplied to the SSS by the Department of Justice often provided the date of birth along with the name of an individual. With this information, the SSS could request the individual's Social Security number from the Social Security Administration.

After receiving the Social Security number, the SSS could check the individual's tax record through the Internal Revenue Service Individual Master File. The SSS could then check its own files for any indication that the individual had received income which he had not reported, or for other types of financial information which might be inconsistent with his tax records, such as deductions claimed.

SSS records show that the SSS made about 2,968 requests for Social Security numbers. The requests were sent to the Division of Reporting and Accounting Methods of the Social Security Administration. By informal agreement with the Social Security Administration, the SSS was limited to sending requests on not more than 100 individuals per week since otherwise the SSS might have submitted more requests than the Social Security Administration would have been able to handle.⁷

If the IRS Individual Master File showed no record that the individual had filed tax returns, the SSS could ask the Social Security Administration for the names of that individual's employers for the previous three years, the addresses of those employers, and record of wages (subject to Social Security tax) the individual had earned in that period. (If the information received from the Social Security Administration indicated that the individual had received taxable income but had not filed a return for the period in question, the SSS often

⁶ In general, disclosure of Social Security information is permitted to any Treasury Department employee charged with administration of Federal income or employment tax laws, but only for the purpose of such administration. Social Security Act, 42 § 1306; 20 C.F.R. § 401.3(d), 401.3(i) (1).

⁷ The staff was informed that this informal limitation was arranged with the Social Security Administration by the SSS employee who had suggested the use of this information.

would initiate a field referral to collect unpaid taxes.) The SSS sent requests for this wage information to the Division of Earnings Systems of the Social Security Administration. The number of these requests was restricted by an informal agreement to no more than 25 individuals, weekly, to avoid overburdening the Social Security Administration. SSS records show that about 725 of these requests were submitted by the SSS.

The SSS also received the history of wages (subject to Social Security tax) paid by an employer during a designated quarterly period. This information included the amount of taxable wages paid to each employee and the Social Security number of each employee. Except in cases of certain types of tax-exempt organizations, with this information the SSS could determine whether the organization had paid Social Security taxes and withholding income taxes for its employees, and whether the organization was filing the required employment tax forms. Also, this information could give the SSS information on the scope of the organization's operations and the extent of its financial capabilities, and could identify the individuals employed by the organization. (In one case examined by the staff, this request was used to obtain information which was the basis for checking the tax filing records of all employees of a left-wing "radical" organization.) The SSS submitted approximately 150 requests for this type of information; these requests went to the Division of Earnings Systems of the Social Security Administration.

Department of the Army.—SSS memoranda state that after preliminary informal discussion between an SSS staff member and staff members of the Counterintelligence Analysis Branch of the Office of the Assistant Chief of Staff for Intelligence, on October 7, 1969, the SSS acquired two documents compiled by Army military intelligence regarding civil disturbance and dissidence.⁸ According to notes of an SSS employee, the first document discussed target cities of civil disturbance groups, the organization of these groups, and "personalities of interest" (including personalities that might be instrumental in combating civil disturbance).⁹ The second volume was more concerned with the socio-economic causes of civil disturbance.

SSS records show that on October 10, 1969, the first document was returned to the Army and that on January 16, 1970, the SSS obtained two new volumes from Army counterintelligence. These two volumes appear to contain the same type information as was in the document returned on October 10, 1969. The first of these new volumes discusses "cities and organizations of interest," while the second is concerned with personalities. These two volumes were dated October 15, 1969.¹⁰

It is not clear whether the SSS used the Army information as the basis for opening files on individuals or organizations. Staff interviews with a former SSS employee indicated that SSS employees occasionally referred to these documents for additional information

⁸ The SSS files contain some references to contacts with Department of Defense intelligence units (aside from contacts with the Department of the Army, etc., within the Department of Defense). However, the staff has found no information that the SSS received any information from the Defense Department (as opposed to the Army, Navy, and Air Force, as described below).

⁹ See generally Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary, *Army Surveillance of Civilians*, S. Doc. No. 79-911, 92nd Cong., 2d Sess. 9 *et seq.* (1972).

¹⁰ Although the Army cooperated, the staff was unable to contact the Army personnel who had participated in turning over the two documents to the SSS.

regarding organizations and individuals on which files had been established.

The SSS files also show an instance of additional contact between the SSS and the Army where an SSS employee discussed two taxpayers (a former Army lecturer and a Congressman) with a member of the Army counterintelligence staff. In this case, the SSS appears to have tried to learn of the Army's attitude toward those individuals.

In another situation, the SSS requested and received information from the Counterintelligence Analysis Branch of the Office of the Assistant Chief of Staff for Intelligence on a specific organization generally considered to be "anti-war." (Later, the tax exemption of this organization was revoked by the IRS; however, it is not clear whether the information received from the Army was instrumental in this action.)

The SSS records also state that contact was made in late 1969 with the Provost Marshal General's Office of the Department of the Army, and that the cooperation of that office was promised. However, the staff has found no further evidence of coordination with that office.

Department of the Navy.—SSS records show that on October 30, 1969, the Director of the Naval Investigative Service provided the SSS with two publications. One of these publications described a specific Vietnam war protest event, the organizations involved, and action taken by military authorities with respect to the individuals protesting. The other publication described in general the "radical movement" directed against the military, emphasizing a number of organizations. The staff was unable to determine for what purposes SSS employees used these books.

Department of the Air Force.—SSS records show that by November 3, 1969, the SSS had established informal contact with the Criminal Investigations Division and the Counterintelligence Division of the Directorate of Special Investigations of the U.S. Air Force.

On December 4, 1969, Donald Bacon, Assistant Commissioner (Compliance) wrote to Colonel Heston C. Cole, Directorate of Special Investigations, U.S. Air Force, to request that the SSS be placed on his organization's list for dissemination of information regarding dissident organizations and individuals. Colonel Cole agreed to this request in a letter dated December 17, 1969.

The staff has not found any information that shows that the SSS received information from the Air Force on a regular basis. However, SSS records state that Air Force Intelligence furnished the SSS with information on the solicitation of funds by four anti-war organizations; the SSS also received general information about one other anti-war organization.

Secret Service.—On January 26, 1970, Commissioner Randolph W. Thrower wrote Secret Service Director James J. Rowley to request the Secret Service's master computer tape file and tape format on individuals identified with various militant and subversive organizations. The Secret Service did not provide the SSS with the tape file, but according to a former SSS employee, offered to provide the SSS with file information on an individual basis. However, the staff has not found any case where the SSS asked the Secret Service for information on any particular individual.

Department of State.—According to SSS files, the SSS received information in 1969 on one “radical” organization from an employee of the Agency for International Development, Department of State. It appears, however, that the individual who supplied the information may have been acting more as a private citizen than as an employee of the State Department.

Information Received From Congressional Committees

Permanent Subcommittee on Investigations of the Senate Committee on Government Operations.—There were several early contacts between the SSS and the Permanent Subcommittee on Investigations. On July 29, 1969, the staff of the SSS, along with other IRS personnel, met with three investigators of the staff of the Permanent Subcommittee. The minutes of this meeting state that the Permanent Subcommittee staff members offered to aid the SSS, subject to the approval of the Chairman of the committee. (See section III, Formation of Special Service Staff.) On August 1, 1969, Commissioner Thrower wrote to Senator John L. McClellan asking that SSS staff members be allowed to inspect Permanent Subcommittee files. Permission was granted by Senator McClellan in a letter of August 8, 1969.

In addition, 22 of the original 77 organizations which were the subject of SSS inquiry were also the subject of an investigation by the Permanent Subcommittee. (See section V, Special Service Staff Files.)

SSS records also show that by early September 1969, the Permanent Subcommittee staff had helped the SSS in developing working arrangements for the SSS staff to review files of the House Internal Security Committee.

There does not appear to have been much later contact between the SSS and the Permanent Subcommittee (although the SSS used the published hearings of the Permanent Subcommittee). Philip Manuel (Chief Investigator for the Permanent Subcommittee) told the staff that although SSS personnel were authorized to inspect the Permanent Subcommittee's files, they did not in fact do so.

Internal Security Subcommittee of the Senate Judiciary Committee.—SSS records show that during 1969 and 1970 the SSS reviewed information from the Senate Internal Security Subcommittee on 12 organizations and 4 individuals. These contacts apparently continued through late September 1970.

The staff has found no evidence that SSS employees were formally authorized to inspect this Subcommittee's files, but a former SSS employee told the staff that he visited the Subcommittee to look through its files on one occasion for information on one particular subject of investigation.

House Internal Security Committee.—The relationship between the SSS and the House Internal Security Committee apparently was developed on an informal basis, through personal contact. (As noted above, the SSS was “introduced” to the Committee by the Permanent Subcommittee on Investigations staff.)

The House Internal Security Committee furnished the SSS with a significant amount of information. SSS records show that it regularly received information from this committee on specific organizations from the fall of 1969 through 1971. Former SSS employees have told the staff that these contacts also continued after 1971.

According to an SSS report, by the end of 1970, the SSS had been allowed direct access to the Committee's library files, and this made it easier for the SSS to secure information from the Committee.

The SSS made photocopies of Committee card files on specific individuals and organizations. An alphabetical file of this information was maintained in the SSS offices, and the information also was added to SSS files on individuals and organizations. In some cases, it appears that information received from the Committee was used to start a file on an individual or organization.

A typical Committee card on an individual would show his name, address, the name of the organizations to which he belonged, and a reference to a magazine article or other source that caused the card to be prepared by the Committee. Information received from the Committee included identification of leaders of "radical" organizations, accounts of the travels and discussions of those leaders, and financial information on the organizations and their leaders, such as sources of funds and bank records (including bank deposits and cancelled checks).

The SSS records also state that the SSS made arrangements for a Revenue Agent from Chicago to inspect the Committee's records on one "radical" organization.

As described below, the SSS provided and received "substantial assistance" (in the terms of an SSS report) from the Committee on one prominent anti-war organization in an exchange of information on this organization.

Subcommittee on Foundations of the House Select Small Business Committee.—Although SSS personnel were authorized (in a letter dated October 13, 1969, from Chairman Wright Patman to Acting Commissioner William H. Smith) to review files of the Subcommittee on Foundations of the House Select Small Business Committee, the staff has not found any evidence that indicates the SSS received any information from the Subcommittee.

Information Received From State and Local Governments

Shortly after the SSS was established, two SSS staff members went to California to establish contact with State and local officials. SSS reports state that these employees met with IRS intelligence officers in Los Angeles, Oakland, and San Francisco, and with representatives of the California Department of Justice and the Criminal Division in the United States Attorney's Office for the Northern District of California. In his interview, a former SSS employee indicated that they also met with local officials in Denver, Colorado. In reviewing the SSS files, the staff found some information from a California law enforcement official about a California resident. However, it is not clear whether this information was received as a consequence of the SSS staff trip to California or whether it was received independently.

The staff was also told by a former SSS employee that the SSS established contact with State and local law enforcement officials in several Southern states on behalf of the SSS. It is not clear, however, whether any information was received by the SSS as a result of these contacts.

*Information Provided to Other Government Agencies and Congressional Committees*¹¹

The Special Service Staff gave assistance to a number of Government offices, but these contacts were nowhere near as numerous as those in which it received aid.

Department of Justice.—Information was provided the Department of Justice through SSS activities involving "national security cases." A national security case involved a request by the Internal Security Division of the Department of Justice to the IRS for copies of tax returns "in cooperation with an official matter before this office involving a matter relating to the Internal Security of the United States." (The Internal Security Division itself might want this tax information, or it might inquire on behalf of the Federal Bureau of Investigation, which, not being an independent agency, was not authorized to obtain tax returns on its own behalf.)

Generally, the IRS would respond to a request for tax returns in a national security case by sending the information requested to the Justice Department (pursuant to sec. 6103 of the Code). In addition, if there was no record of the requested returns having been filed, the IRS would ask the field to begin a delinquency investigation to secure the returns in question. In his staff interview, Donald O. Virdin (formerly Chief of the Disclosure staff) said the practice of beginning a delinquency investigation on national security cases dated back to the 1950's.

National security case requests for tax returns all went to the Disclosure Branch of the IRS Compliance office. In addition, according to information from the IRS, beginning on June 16, 1970, all Internal Security Division requests for tax returns were sent to the SSS from the Disclosure staff. The staff was told that the procedure was changed to include the SSS because of the greater information available to it regarding some of the subjects of national security case requests, and because it appeared that the field responded faster to a request for tax returns from the SSS than from the Disclosure Branch.

The staff was told by a former SSS employee that each time a national security case was routed to the SSS a new SSS file was prepared on the individual or organization that was the subject of the request, if a file did not already exist. The IRS has stated that 99 national security requests were received from the Internal Security Division during 1969 through 1973.¹² However, the exact number of national security cases is uncertain.¹³

The staff determined that the SSS had files on all but three of the subjects of these national security case requests. (These three sub-

¹¹ Section 6103 of the Code governs the disclosure of tax information outside the IRS. See also Treas. Reg. § 301.6103.

¹² March 5, 1974, letter to Senator Sam J. Ervin, Jr., from Commissioner Donald C. Alexander, reply to interrogatory 35.

¹³ The Special Service Staff and the Disclosure Staff apparently did not differentiate between requests formally described as national security cases and other requests for tax return inspections received from the Internal Security Division. In a letter of February 1, 1974, to Senator Sam J. Ervin, Jr., Assistant Attorney General Henry Petersen has stated that only 48 national security case requests were submitted to the Internal Revenue Service during 1971 and 1972. For this period, the Internal Revenue Service has stated that it received 76 requests for inspections of income tax returns from the Internal Security Division. (March 5, 1974, letter from Commissioner Donald C. Alexander to Senator Sam J. Ervin, Jr., answer to interrogatory 35.) The staff investigation of the IRS files indicated 77 requests were filed in that period.

jects included two individuals and one organization and were named in the same Internal Security Division request.)

Additionally, 18 requests for delinquent tax returns were made to the field by the SSS with respect to individuals and organizations named in national security case requests for tax information. Tax returns have been collected in 5 of these cases and were furnished by the IRS to the Internal Security Division. As to the other requests, some of the subjects could not be located and some are involved in cases which are still open.

As noted above, on March 26, 1971, staff members of the SSS met with two employees of a new section in the Internal Security Division (ISD) called the Analysis and Evaluation Section. The two groups discussed possible avenues of cooperation. IRS and Justice Department memoranda of this meeting state that the SSS agreed to arrange for someone with accounting expertise to look over records of a militant group available to the Justice Department; this arrangement was subsequently made. In addition, the Justice Department memorandum of this meeting indicates that the SSS agreed, subject to the approval of the Assistant Commissioner (Compliance) to provide the ISD with a list of extremist individuals. In his staff interview, a former ISD employee who was at that meeting said that no list was ever given to ISD. The staff has found no evidence to the contrary. The staff was told that several copies of magazine articles were given to ISD by the SSS. (Similarly, a list of individuals was promised by ISD to the SSS, but apparently was never delivered.)

In other isolated instances, information was supplied to the Justice Department by the SSS. An SSS report of July 1971 states that assistance was given to a Department of Justice attorney on an anti-war taxpayer and on a "radical" organization. So far as the staff has been able to determine, the information given to the Justice Department on that occasion was related to the question of whether the organization was entitled to its tax exemption, which was a question the IRS was investigating at that time. Additionally, an SSS file memorandum reports that on September 17, 1973, a Justice employee checked the SSS files on an anti-war organization.

The SSS also sent to the Justice Department information on alleged postal violations allegedly committed by two organizations. These alleged violations were discovered by SSS employees in the course of their investigation of these organizations.

Federal Bureau of Investigation.—A list of contributors to a "left wing extremist" organization may have been given to the FBI by the SSS, and then transferred to the White House. (See *Communications with the White House*, below.)

On January 3, 1972, former FBI Director J. Edgar Hoover wrote the SSS to alert it to a possibility of tax evasion by a Black militant individual. In this letter Mr. Hoover asked to receive the results of any action taken by the IRS with regard to this individual. Although an FBI report also sent to the SSS contained evidence of tax evasion, the SSS files reviewed by the Joint Committee staff do not indicate that the SSS initiated a field referral with respect to this individual.

Secret Service.—An SSS report of July 1971, states that the SSS gave assistance to the Secret Service with regard to a member of a

Black militant organization. A former SSS employee told the staff that a Secret Service employee inspected the SSS files on the individual and the organization.

Department of the Navy.—According to SSS records, in December, 1969, the Naval Investigative Service sent the SSS information on two AWOL sailors who had operated a money-changing operation in South Vietnam. The SSS records indicate that thereupon the SSS turned over its "entire file" on these individuals to the Naval Investigative Service.

House Internal Security Committee.—A former SSS employee told the staff that a House Internal Security Committee employee examined SSS records on 30 individuals and organizations. This inspection may have been pursuant to Executive Order No. 11465, dated April 10, 1969, allowing that committee staff to inspect IRS records.

An SSS report of June 1, 1971, records that "identifying assistance" and other information regarding an anti-war group had been furnished the Committee. SSS reports of September 1971, show that the SSS had continued to exchange information with the House Internal Security Committee regarding the funding of an anti-war group. One report dated September 29, 1971, states that the SSS had given the committee "substantial assistance . . . from our files which was not classified nor covered under disclosure statutes."

State and local governments.—As discussed above, two SSS employees communicated with State and local law enforcement officials in California and in the South. According to staff interviews, coordination with these units was apparently established with the understanding that information would be exchanged by both sides. The staff also was told that a former SSS employee made arrangements to "exchange" information with State and local law enforcement agencies, but that no tax-related information was disseminated by the SSS.

Communications With the White House

Summary.—There is some evidence that, after the formation of the SSS, there were inquiries to Roger V. Barth (formerly Assistant to the Commissioner) from the White House regarding the specific organizations. Additionally, Mr. Barth made some inquiries regarding specific organizations to the office of the Assistant Commissioner (Compliance) which were answered by the SSS. However, the staff has not found any evidence that ties these White House inquiries on specific organizations to the inquiries from Mr. Barth that went to the SSS. In one case, information on contributions to a "left-wing extremist" organization went to the FBI from the IRS, and then from the FBI to the White House. The SSS was involved in this transfer of information to the White House.

In September 1970, Randolph Thrower, then Commissioner of Internal Revenue, reported to the White House in response to an inquiry from Tom Charles Huston regarding the activities of the SSS in general. This report did not deal with any specific individuals or organizations. Mr. Huston has told the staff that he forwarded this report to Mr. H. R. Haldeman, and thereafter he heard nothing from Mr. Haldeman on the issue and did nothing more with respect to this activity of the IRS.

Mr. Huston also has told the staff that he did not talk with people

in other executive agencies, such as the Department of Justice (or the FBI) to encourage them to help the IRS with respect to the SSS. Additionally, Mr. Huston has told the staff that he did not talk with the Internal Revenue Service about the SSS (or about the Service, in general) in regard to the report of the Interagency Committee on Intelligence (the "Huston Plan").

Inquiries from the White House to Roger V. Barth regarding specific organizations.—Roger V. Barth told the staff that between the summer of 1969 and the summer of 1970 he had perhaps three or four conversations with Tom Charles Huston about specific exempt organizations. Mr. Barth said that Mr. Huston might read an article about an organization engaging in certain activities, and he would ask Mr. Barth how this type of organization could be tax-exempt. Mr. Barth said he recalled giving some information to Mr. Huston about these organizations, but did not recall any specific incident. However, Mr. Huston told the staff in his interview that he believes that between July 1969 and September 1970 he did not have any contact with Mr. Barth. (Mr. Huston also told the staff he has never seen a sensitive case report from the IRS, and has never seen a progress report from the SSS other than the report of Randolph W. Thrower to him of September 19, 1970, discussed below.)

Paul Wright told the staff that he had never heard of Tom Charles Huston until the Watergate hearings occurred. Mr. Wright said that while he was with the SSS he never received an inquiry from the White House.

Information furnished to Roger V. Barth by the SSS.—A memorandum of February 4, 1970, from Paul Wright to Roger V. Barth included information on organizations of the "extreme left" and "extreme right." The memorandum gave one sentence descriptions of each of ten organizations, and did not include any information on the tax status of these organizations. In his interview, Mr. Barth told the staff he did not know why he had asked for the memorandum and did not know what he did with the information he received.

The SSS files contain a memorandum from the Assistant Commissioner (Compliance) to the Acting Commissioner, Attention Roger V. Barth, dated August 2, 1971. This memorandum deals with a Black religious organization, and describes the history of the IRS investigation of this organization. The memorandum also states that the information will be used to brief the Secretary of the Treasury. In his interview, Mr. Barth said that he recalled the case but did not recall why he discussed it with the Secretary of the Treasury. Mr. Barth said that Secretary Connally may have been interested in the case because it had been going on for some time (see below).

In March 1972, classified FBI material regarding a "left wing radical" organization and an individual associated with it was sent to Mr. Barth from the SSS. This information was returned to the SSS by Mr. Barth about three months later. In an affidavit dated November 12, 1973, Mr. Barth stated that he asked another IRS employee to review this file for him. It appears that this employee was provided the FBI reports from the SSS files, along with other material reviewed on this organization. In addition, Mr. Barth told the staff that this employee worked with the revenue agent examining this case. (Also, the SSS files indicate there was an unusual amount

of communication between the revenue agent examining this case and the SSS.) In his affidavit Mr. Barth stated that he reviewed the file on this organization because the sensitive case report about the organization showed a substantial time lag in the case (the organization was then under audit) and that Secretary of the Treasury John Connally had complained about the time lag.¹⁴ Mr. Barth said that Secretary Connally also expressed concern with the amount of time an audit would take with respect to other cases as well.

The SSS files also show that in October 1971 Mr. Barth inquired about a school considered to be "left wing," and as a consequence the SSS asked an employee of the Alcohol, Tobacco and Firearms Division (but formerly with the SSS) to compile a report on the organization. In his interview, Mr. Barth said he recalled talking with the Assistant Commissioner (Compliance) about the organization, but does not remember why.

In his staff interview, Tom Charles Huston said that he did not recall making inquiries of the IRS about any of the organizations discussed above, or about a list of extreme right or extreme left wing organizations. (Mr. Huston left the White House in June 1971.)

Information on contributions.—A memorandum for the file of April 8, 1970, by Donald O. Virdin states that Paul Wright of the SSS and Joe Hengemuhle of the FBI asked whether the FBI could furnish the White House a list of contributors to a "left wing extremist" organization; the list previously had been furnished to the FBI by the IRS. Since Mr. Wright was involved in the inquiry, it seems likely that the information may have come from the SSS. Mr. Virdin's memorandum states that Leon Green approved the release of this information to the White House.

Memorandum to Tom Charles Huston of September 12, 1970.—On August 14, 1970, Tom Charles Huston of the White House staff sent a memorandum to Roger V. Barth asking what progress had been made by the Compliance Divisions on reviewing the operations of ideological organizations. Mr. Huston told the staff that he believes he wrote this memorandum to Mr. Barth because at that time a certain foundation was being discussed in the newspapers, and Mr. Huston probably became "burned up" about this foundation.¹⁵

About a month later (September 19, 1970), Randolph W. Thrower sent Mr. Huston a Status Report on the SSS (at that time called the Special Service Group). This was a report on the general activities of the SSS and did not deal with any specific individual or organization. On receiving the report, Mr. Huston sent it to Mr. H. R. Haldeman (on September 21, 1970). In a memorandum to Mr. Haldeman, Mr. Huston said "You will note that the report is long on words and short on substance." Additionally, the memorandum said "Nearly 18 months ago, the President indicated a desire for IRS to move against leftist

¹⁴ The staff understands that the audit of this organization took a number of years: the staff also understands that the exempt status of the organization was not revoked as a consequence of this audit.

¹⁵ A memorandum to the file of August 27, 1970, from Donald O. Virdin states that the foundation "has become an explosive issue" and that "Mr. Barth has met with Treasury officials." In his interview, Mr. Barth said that he could recall looking at the foundation, that somebody was interested in it at the time, and it was a "very hot issue". Mr. Barth told the staff that his recollection is that an inquiry would have been from the White House, not Treasury.

organizations taking advantage of tax shelters. I have been pressing IRS since that time to no avail." Mr. Huston said in his staff interview that his statement about "pressing the IRS" referred only to Mr. Huston's participation in the June 1969 meeting with Mr. Thrower and Dr. Burns, and to Mr. Huston's memorandum of a few days later to Mr. Barth. (See section III, Formation of the Special Service Staff.) Mr. Huston told the staff that he heard nothing in response from Mr. Haldeman, but this was not unusual. Mr. Huston said that the September 19, 1970, memorandum to him from Mr. Thrower was the last contact he had with the Internal Revenue Service with respect to the SSS.

Interagency Committee on Intelligence, etc.—In his interview with the staff, Mr. Huston said that on June 5, 1970, he began to work with the Interagency Committee on Intelligence. (The report of this Committee is known as the "Huston Plan.") Mr. Huston told the staff that he did not talk with anyone at the Internal Revenue Service about what the role of the Service might be with respect to coordination of intelligence, because the Service and Treasury generally were considered peripheral agencies with respect to intelligence. Mr. Huston said that he believes that no one talked with the Internal Revenue Service (or Treasury) about a possible Service role in a coordinated domestic intelligence review and evaluation procedure, unless someone from the FBI talked with people in the Alcohol, Tobacco, and Firearms Division (or the Secret Service).

Mr. Huston told the staff that he believes he did not talk with anyone in the Justice Department, Department of the Army, or in any other agency (including the FBI) about helping the Internal Revenue Service with respect to the activities of the SSS. Mr. Huston also said he does not recall suggesting to or asking the Department of Justice to ask the Internal Revenue Service for information on any person.

VII. FIELD REFERRALS

Summary

The SSS referred to the field for audit and collection activity a total of 225 cases concerning individuals and organizations in the SSS files. (If husband and wife are counted separately, the referrals total 234. If additional known "communications" with the field are added, the total is 250.) The staff examined field office and SSS files for 149 of these cases, or approximately 66 percent of the total (225) number of cases referred to the field. As between individuals and organizations, the staff examined these files for 93 individuals and 56 organizations. The staff generally did not examine the complete field files on cases in current collection or audit action, to avoid interfering with such action.

It appears that SSS personnel would check centrally maintained IRS master files on a relatively systematic basis to see if individuals or organizations in the SSS files had filed required tax returns and (if filed) whether the returns indicated that an audit examination was appropriate. However, in the early stages, it appears that the SSS focused on one Black militant group (and individuals associated with the group) and also on one extremist left wing group (and individuals associated with that group). In at least one later situation, it appears that one group of organizations and associated individuals (underground newspapers and their editors) were given special attention by the SSS.

It appears that generally field referrals were not made by the SSS without some consideration of tax-related information, and that a field referral generally would not be made unless there was some reason to believe that there might be a failure to comply with the tax laws. However, in some of the cases reviewed by the staff, the tax deficiency potential appeared to be marginal, based on the information contained in the file. Also, in some "national security cases" (described in section VI. Coordination With Other Government Units) it appears that the SSS may have made field referrals without checking an individual's wage (or other financial) records to determine if there was some evidence that a person who had not filed a return had taxable income.¹ Also, in many cases a summary of non-tax background information from FBI reports was sent to the field, including an individual's activities such as speeches given, attendance at meetings, or demonstrations, etc. The background information also would include the individual's affiliation with Black militant groups, anti-war groups, or similar organizations.

SSS field referrals were made in the form of a transmittal memorandum with an attached information sheet and a recommended action. Initially (from August 1969, to June 1970) the transmittal memorandum indicated the field was to promptly take the action rec-

¹ Additionally, as described in section VIII, Field Referrals on War Tax Resisters, field referrals in "war tax resister" cases were made on a different basis than other referrals.

ommended by the SSS. Later, the form of the transmittal memorandum was changed, indicating that the field should take the action it deemed appropriate. The field objected to the recommended action only in a few cases. The field generally would take action on and close a collection case in about six months from the date of referral; an audit case could take somewhat longer.

The reaction by the field may have been affected because of the request by the SSS for a status report. Initially, the field reported to the SSS using sensitive case reporting procedures under which a report was required whenever there was a significant development. In June 1972, this procedure was terminated and the field was instructed to inform the SSS of the results of any investigation. Then, in April 1973, quarterly status reports were required to be submitted to the SSS for each case initiated by it.

In collection cases referred by the SSS, the field generally would attempt to contact the taxpayer and arrange for the filing of any required returns. In collection cases where no return was required, during at least one year the SSS recommended that the field secure a signed, witnessed statement that no return was required. This type statement was not generally required by the IRS. In audit cases referred by the SSS there would be an office audit or a field audit, as appropriate. In a number of collection cases referred by the SSS the field determined that the individual was not required to file a return. Similarly, in some audit cases an audit was not conducted because, after survey of the return, the field decided no revenue potential was apparent.

In one case examined by the staff, the field objected to the recommended action because the District Director felt the recommendation discriminated against taxpayers associated with Black militant organizations. In another case, the field refused to follow the recommended action because an audit would not be required of a similar community fund-raising organization and the noncompliance potential was minimal. However, refusal to follow an SSS recommended action was unusual.

On the other hand, in one case examined by the staff, the revenue agent auditing the organization maintained frequent contact with the SSS, and the SSS provided information to the agent during the course of his examination of the organization. (This audit apparently began before the SSS field referral.) However, this extensive degree of communication directly with the field agent was not common. In most cases the only communication after a referral from the SSS to the field was one or more status reports from the field to the SSS and inquiries by the SSS to the field about the status of a case, where there had not been a status report for 3 to 6 months.

At the time it was discontinued, the SSS had established files on 8,585 individuals and 2,873 organizations. Approximately 800 of these cases were classified as "war tax resister" cases. According to information furnished the staff by the Internal Revenue Service, the SSS requested searches of Internal Revenue Service individual and business master files with respect to the filing status of 3,658 individuals and 832 organizations in the SSS files. In addition, the SSS conducted searches of the Internal Revenue Service exempt organization master file with respect to 437 organizations.

The SSS made field referrals on 136 cases involving individuals (145 if a husband and wife were counted separately) and 89 organizations. Of the 225 total referrals made by the SSS, 176 initially were collection cases and 49 initially were audit cases; however, there were later field transfers from collection to audit. Categorizing the individuals who were the subject of field referrals, 63 (of 136) appear to be primarily affiliated with Black militant groups. The next largest affiliation was 24 individuals primarily affiliated with anti-war groups. Additionally, of the field referrals there appeared to be the following primary affiliations: 13 individuals affiliated with student activist groups, 10 affiliated with civil rights groups, 10 affiliated with left-wing groups, 7 affiliated with right-wing groups, and 9 affiliated with other types of groups.

With respect to organizations, 57 (of 89) field referrals related to organizations which were considered by SSS as either left-wing (23), anti-war (19), or underground newspaper organizations (15). The remaining referrals were considered by the SSS to be of the following types: 6 Black militant organizations, 3 welfare and antipoverty groups, 3 religious organizations, and 20 organizations which were either civic, educational, social, or other types.

Total net assessments against individuals were approximately \$580,000, but approximately \$501,000 of that amount were attributable to four cases. Also, in 89 (of 136 total) cases, either no return was secured, a refund was paid, or no tax was due. For organizations, the net revenue assessed was approximately \$82,000, and the Service revoked its determination of exempt status in one field referral case. (For other actions involving exempt organizations, see section IX, Coordination With Exempt Organizations Branch.) The staff understands that less than \$100,000 of the total assessments has been collected, but that a significant portion of the amounts assessed is still in controversy.

The staff also reviewed SSS field referral cases for any follow-up activity by the field. In nine cases reviewed by the staff there was follow-up activity where the SSS-initiated action had not been closed before returns for the later years were required to be filed. In six cases (some of which were among the nine just noted), there was later field action based on routine computer selection. The staff did not find any evidence that an SSS referral resulted in a taxpayer being placed on a list for future audit or collection action solely because the SSS referral had been made.

Generally, it appears that the SSS did not refer cases for field action without some analysis to determine a tax basis for the referral. The number of requests for Social Security data, master file checks, and requests for copies of returns tend to indicate that an effort was made to obtain tax information to form the basis for a referral to the field. Moreover, the small number of cases actually referred to the field in relation to the number of files established tends to indicate that the SSS generally screened cases before making a referral to the field. In the course of its review of the SSS files, the staff found that in some cases the tax-related information contained in the referral attachment might be considered to be insignificant. (However, the staff realizes that the evaluation of the significance of much of the material involves the exercise of individual judgment. In this light, the staff

did not review any referral which was completely devoid of tax-related information, except for one "national security case.")

The unusual features of the SSS field referrals were (1) requiring an individual who was not required to file a return to sign a statement to that effect, (2) the direction to the field to take a specific action (in the initial transmittals), (3) the inclusion of background material which had a dubious relationship to tax liability, and (4) the requirement that sensitive case reporting or other progress reports be used in all cases. As a result of its review of the files, the staff concluded that the field generally did not treat taxpayers referred by the SSS any harsher than it would have in a routine case, although in a few cases the field examination may have been excessive in attention to detail.

With respect to the priority given to the SSS referrals by the field, it appears that SSS personnel initially believed that their case referrals would be given priority treatment by the field. However, the documents reviewed by the staff indicate that SSS personnel later became concerned that these cases were being handled in a routine manner by the field. From its review of the SSS files and related field office files, the staff has concluded that, except in isolated cases, the field handled the SSS referrals in a routine manner.

Referral Selection Procedures

Individuals.—Generally, in the case of a file established by the SSS for an individual (other than a tax resister to whom the procedures described in section VIII applied), the initial step taken by the SSS was to obtain a Social Security identification number from the Social Security Administration (if the number was not otherwise available from the data used to establish the file). Requests for identification numbers generally were processed by the SSS clerical staff as files were established. The requests were signed by Paul Wright, Chief of the SSS. As described in Section VI, Coordination With Other Government Units, the SSS would usually make weekly requests of the Social Security Administration for Social Security identification numbers for individuals. The staff understands that it was intended that Social Security identification numbers eventually would be secured for all individual files. Information furnished by the IRS indicates that the SSS requested Social Security identification numbers for 2,968 individuals during its existence.

After the SSS obtained a Social Security identification number for an individual, it would request a search of the Internal Revenue Service Individual Master File to determine if the individual had filed income tax returns for recent taxable years. The master file is maintained under a computer system and contains information concerning a taxpayer's filing history for individual income tax returns. A computer printout reflecting a taxpayer's filing history (or that there was no record of a return filed by a particular taxpayer) was furnished to the SSS as a result of a search of the master file. Usually, the SSS clerical staff would request 25 to 30 Individual Master File searches each week on a routine basis. Information furnished by the IRS indicates the SSS requested Individual Master File searches for 3,658 individuals.

If a master file search indicated that an individual had not filed returns for recent years, the SSS then would attempt to determine

whether the individual probably should have filed an income tax return. This determination would be made by an SSS analyst. Ordinarily, the analyst would examine the individual's return-filing history, information secured from the Social Security Administration concerning wages paid to the individual, and other financial information contained in the file. (Information furnished by the IRS shows that the SSS requested earnings reported for Social Security purposes for 725 individuals during its existence. In addition, the SSS requested copies of quarterly payroll returns filed by 150 organizations to obtain wage information with respect to all of an organization's employees.) Cases involving an individual's failure to file were referred to the Collection Division for field action.

Cases involving an individual's failure to file also were referred to the field by the SSS under the "national security case" procedure. (See section VI, Coordination With Other Government Units.) National security cases involved persons who were the subject of an inquiry for tax information by the Internal Security Division of the Justice Department. Generally, these requests (permitted under section 6103 of the Code) asked for recent tax returns of an individual. As described in section VI, if the IRS National Office could not find that the person had filed a return, a referral would be made to the field, asking the field to secure the required return. After June 1970, the SSS (and not the Disclosure Branch, as before that date) initiated the field referrals needed in national security cases to secure required tax returns. In some of these cases examined by the staff, it appears that the SSS may not have reviewed wage or other financial information before making a field referral for collection action.

If a master file search indicated that the individual had filed, the SSS generally would secure a copy of his returns from the applicable IRS service center for recent taxable years. Information furnished by the IRS indicates the SSS requested and reviewed copies of 129 income tax returns filed by 86 individuals. The returns would be examined for omission of income by comparison with financial data contained in the SSS file. Also, deductions would be reviewed, *e.g.*, by ascertaining if an organization to which a contribution was made was on the Internal Revenue Service list of charitable organizations. If the SSS examination disclosed questionable deductions or the possibility of omitted income, the case would be referred to the Audit Division for field action.

It appears that in the case of individuals and organizations, no direct referrals were made by the SSS to the Intelligence Division for investigations of possible criminal violations of the Internal Revenue laws or the applicability of the civil fraud penalty. However, after the SSS had referred a case to the field, the Collection and Audit Divisions occasionally made referrals to the Intelligence Division.

Organizations.—In the case of an organization, the SSS would review the IRS Business Master File to determine if payroll and income tax returns had been filed. This master file is a computer file system containing information concerning a taxpayer's filing history with respect to payroll tax returns, corporate income tax returns, and other business related returns. A computer printout reflecting a taxpayer's filing history (or that there was no record of filing by a particular

taxpayer) was furnished to the SSS as a result of a search of the master file. Information furnished by the IRS shows that the SSS requested Business Master File searches for 832 organizations during its existence.

With respect to organizations claiming exempt status, Exempt Organization Master Files were also reviewed to determine if the appropriate information returns had been filed for 437 organizations. This master file is a computer filing system containing information concerning an organization's filing history with respect to annual information returns required to be filed by certain exempt organizations. The SSS had a microfilm tape of printouts from this master file and used a printer-reader machine to obtain information concerning an exempt organization's filing history.

If the file review on an organization indicated that required returns had not been filed, the case was usually referred to the Collection Division for field action.

If an organization had filed returns, the SSS frequently would secure and examine the returns. Information furnished by the IRS shows that the SSS requested copies of 140 tax and information returns for 120 organizations. In the case of an income tax return, the SSS would review the return for questionable deductions claimed and (by comparison with information in the SSS file) for the possibility of unreported income. If an examination of the return disclosed the possibility of an improper determination of the amount of tax, the case would be referred to the Audit Division.

In the case of an exempt organization, the SSS also would review the data in its files to determine if the organization may have engaged in prohibited activities which would provide the basis for termination of its exempt status. If the examination indicated that the organization might have engaged in such activities, the case would usually be referred to the Audit Division for field action.

Focus on particular groups.—It appears that the SSS staff systematically reviewed its files with respect to tax compliance. To a considerable extent, the emphasis by the SSS upon a particular group at a given time would be attributable to the emphasis placed upon a group by the agencies which furnished information to the SSS. However, the staff was told that in its initial stages, the SSS focused much of its attention on two particular groups (one is a Black militant group and the other is generally considered an extremist left-wing group) and persons associated with them. (This is generally confirmed by early SSS reports.) Also, beginning in 1971, there was some emphasis placed on tax resister cases usually involving persons identified with anti-war movements. (See section VIII below.)

In one other situation the staff found that the SSS focused on a particular group of organizations and associated individuals. In a memorandum of January 12, 1972, to the Director of the Collection Division, Paul Wright stated that the SSS was in the process of checking the names appearing on a list of underground newspapers and their editors against Individual and Business Master Files and other sources for possible tax violations. The staff understands that this list was received by the SSS from the FBI. In this memorandum, Mr. Wright stated that several of these cases had already been referred to the field for investigation and more would be forthcoming.

Memoranda and other materials relating to selection for field referrals.—From the staff's examination of the SSS files and various memoranda and materials, it appears that a field referral ordinarily would not be made unless a check of tax information by the SSS indicated the possibility of a delinquency in filing a return or an erroneous determination of tax as reflected on a return which had been filed.²

An Internal Audit report describing an examination of the SSS for the period August 5, 1969, to June 1, 1972, noted that, as a matter of policy, the SSS did not refer failure-to-file cases to the field unless the SSS had financial information indicating potential tax liability. The Internal Audit report suggested that this policy should be reconsidered and that failure-to-file cases be referred to the field "when an individual or organization has been identified as one worthy of compliance consideration." It appears, however, that this recommendation was rejected. In a memorandum of August 25, 1972, to the Assistant Commissioner (ACTS), the Director of the Collection Division took exception to the suggestion of the Internal Audit report. With respect to the referral of failure-to-file cases, this memorandum stated that "before such action can be taken, this information [indicating that a return had not been filed] should be correlated with other factors, such as filing history, audit potential, and other indications of noncompliance. It is not the mission of the staff to forward information which would trigger fishing expeditions or circumstances that would afford such persons unwarranted publicity which they seek or make them appear as martyrs in the eyes of their peers and cohorts."

Method of Referral to the Field

Transmittal memorandum used.—From its inception in July, 1969, until it was abolished in August 1973, the SSS referred cases to either the Director, Collection Division, or the Director, Audit Division, who would then transmit the material to the appropriate field office. The SSS referral would be made by a transmittal memorandum containing a summary of SSS file data and a recommendation for action.³ The transmittal memorandum used by the SSS until approximately June 1970, indicated that the recommended action was to be promptly initiated. (The memorandum stated "please promptly initiate the action recommended.") Attached to the referral memorandum was a summary of the case file and a recommended action.

The transmittal memorandum also directed the field to use sensitive case reporting procedures to report field action on the referred case. The sensitive case reports were to be mailed to the SSS.⁴

² A memorandum of September 19, 1970, from Commissioner Thrower to Tom Charles Huston, indicated that there would be a field referral where there was reason to believe the tax laws were not complied with. In April 1972, the Internal Revenue Manual was amended to include the functions of the SSS; the amended Manual stated that field referrals would be made where it had been determined the tax filing and paying requirements were not met or there was a material difference between tax liability reflected in the filed return and the correct amount. A memorandum of February 28, 1973, from Paul Wright to the Director, Collection Division, submitted proposed criteria for SSS field referrals. Generally, these criteria provided that field referrals would be made when information indicated the tax laws were not complied with.

³ All of these documents restricted the dissemination of the information on a "need-to-know" basis. A National Office telephone number was provided in the transmittal memorandum to facilitate field communication with the SSS.

⁴ Under the Internal Revenue Manual, sensitive cases were cases which would be of considerable public interest if they became known, resulting in inquiries or criticism directed to the National Office. A sensitive case report was generally used to report significant events in a case, and was normally required to be submitted whenever a significant change took place. The sensitive case reporting system was suspended by Commissioner Alexander on November 13, 1974.

In form, the transmittal memoranda were from the appropriate Assistant Commissioner (Assistant Commissioner (Compliance) until 1972, and Assistant Commissioner (ACTS) thereafter) rather than the SSS. In an interview with the staff, the staff was told that, while the SSS was under the jurisdiction of the Assistant Commissioner (Compliance), the transmittal memoranda were usually signed by Donald Bacon (the Assistant Commissioner), by his deputy, Leon Green or by Bernard Meehan, a staff assistant. During 1972 Paul Wright, Chief of the SSS, signed some of the transmittal memoranda on behalf of the Assistant Commissioner (Compliance). Also, after the SSS was placed under the jurisdiction of the Assistant Commissioner (ACTS) as part of the Collection Division in April, 1972, the Chief of the SSS had authority to sign the transmittal memoranda in the name of the Assistant Commissioner (ACTS). Thereafter, a majority of the transmittal memoranda were signed by Mr. Wright for the Assistant Commissioner (ACTS).

Changes in transmittal memorandum and reporting requirements.—A change in the transmittal memorandum was made in approximately June, 1970. First, the memorandum no longer directed prompt initiation of the recommended action, but stated: "Please transmit this letter and report to the appropriate District Director for consideration of the action recommended." Second, sensitive case reporting procedures were to be used only in the event that the field accepted the recommendations, and if the field decided against initiating the recommended action, a brief memorandum to this effect was requested.

The staff understands that the National Office very seldom directs the field to take any specific action in regard to an examination or investigation and that a District Director has the full responsibility for administering the tax laws in his district. Leon Green told the staff that the initial transmittal memorandum directing the field to take a specific course of action was found to be contrary to this general policy followed within the Internal Revenue Service. In light of this general policy, Mr. Green said that the transmittal memorandum was revised so that information was referred to the field for whatever action the field personnel considered appropriate.

An additional change occurred in approximately June, 1972. At that time, the sensitive case reporting procedure was terminated and the instructions to the field stated that if the action recommended by the SSS was not initiated, an explanation should be mailed to the SSS. In lieu of the sensitive case reporting requirement, the SSS was to be informed of the results of any investigation and to receive copies of any returns secured if the action recommended by the SSS was initiated. Later, under an Internal Revenue Manual Supplement dated April 12, 1973, quarterly status reports were required to be submitted to the SSS for each case initiated by it.

It appears that the reporting procedure was changed as a result of recommendations made in an Internal Audit report on the examination of the SSS for the period August 5, 1969, to June 1, 1972. The Internal Audit report noted that sensitive case reports reflected significant developments, but often did not show the investigative activity undertaken by the field. The Internal Audit report concluded that information concerning investigative activity was necessary for the SSS to be able to monitor the progress of pending investigations and to evaluate the adequacy of closing actions.

Information sent to the field with transmittal memorandum.—The attachment to the transmittal memorandum generally included background material relating to the individual or organization. The attachment included information concerning an individual's associations or activities, financial data, potential sources of income, and questionable items on any return filed. Additionally, in many of these attachments, information obtained from FBI reports received by the SSS was summarized. With regard to an individual, the attachment often noted affiliations, e.g., Black militant groups, anti-war groups, or other organizations. In some cases, detailed information was given concerning an individual's activities, such as speeches given, attendance at meetings or demonstrations, etc. Occasionally, there were warnings concerning an individual's propensity to violence. In the case of an organization, there frequently was an outline of the names and activities of the principal officers or supporters, and the nature of the organization, together with any financial data.

In his staff interview, Leon Green said he once refused to refer a case to the field because there was no information in the attachment to indicate that a return was due or that the individual had received any income. Mr. Green also related that he once deleted from a transmittal memorandum what he felt was an irrelevant discussion of the taxpayer's political opinions and affiliations.

Action recommended to field by SSS.—As previously noted, the transmittal memorandum also included a recommended action. In the case of a referral to the Collection Division, the recommendation was to secure any returns required to be filed. If the field determined that an individual was not required to file an income tax return, it was initially recommended that a signed and witnessed statement be secured from the individual to the effect that no return was required. The staff understands that this type of statement was not usually required in other collection cases where a return did not have to be filed. In staff interviews, former SSS personnel said that the practice of recommending that signed statements be secured in all cases was discontinued during 1970. However, later referrals examined by the staff included this requirement (this may have been done where SSS personnel used an earlier recommendation as "boilerplate" for the transmittal memorandum). In April, 1972, the District Director for Des Moines, Iowa, objected to an SSS recommendation to secure a statement that no return was due. The District Director said, in a memorandum to the National National Office, that this recommendation resulted in discrimination against taxpayers associated with Black militant organizations because other taxpayers in the same situation were not required to submit signed statements.

In the case of a referral to the Audit Division, the SSS recommendation was to examine the taxpayer's return for a particular year or years. Usually, there was a brief explanation for requesting the examination, e.g., it had been reported that the taxpayer cashed certain checks, the taxpayer had claimed a deduction for contributions to a noncharitable organization, or an exempt organization had possibly engaged in prohibited activities.

Action Taken by the Field

Upon receipt of a referral memorandum and attachments from the SSS, the Collection or Audit Division of the National Office would transmit the case to the appropriate district office. The district office

would evaluate the referral for purposes of assignment to a revenue officer (collection cases) or a revenue agent (audit cases), as the case may be, to implement the recommended action.

Collection cases.—In the case of a referral to the Collection Division, the case generally would be set up as a "miscellaneous investigation" and assigned to a revenue officer. Under the procedures generally applicable to a miscellaneous investigation, the revenue officer was required to complete the investigation as soon as practicable, complying with pertinent Manual instructions, and employ usual routine investigative and enforcement procedures. A completion date would be indicated on the miscellaneous investigation assignment and control form.

Generally, in the case of an SSS collection referral, the revenue officer would determine if a return were required to be filed and secure any required return pursuant to the action recommended by the SSS. The contact by a revenue officer with an individual (or an officer of an organization) would usually involve written communication or personal contact. If an individual or the responsible officer of an organization could not be located, the case usually would be closed by the field office. In cases where the individual was not required to file, the revenue officer would ordinarily attempt to secure a signed statement to the effect that no return was required to be filed, where this was recommended.

Audit cases.—In the case of referrals to the Audit Division, the cases were generally handled by a revenue agent or an office auditor through correspondence with the individual or organization, by an office audit involving the appearance of the individual or appropriate officers of an organization at the district offices, by a field audit involving the appearance of the individual or appropriate officers of an organization at the district offices, or by a field audit involving the examination of records at the residence or place of business of the individual or organization. In the case of audit referrals, the case might be closed without the audit recommended by the SSS if the individual or responsible officers of an organization could not be located. Occasionally, an audit would not be conducted pursuant to the SSS recommendation because the field office's examination of the return disclosed little or no revenue potential.

One audit case referred to the Baltimore District to determine if the taxpayer qualified for exempt status was reflected in inventory for longer than 2 years, but was not assigned because of that district's caseload. Thereafter, the Baltimore District informed the Director of the Audit Division that the organization would not ordinarily be selected for audit due to minimal potential of noncompliance. The referral memorandum in this case contained an extensive amount of material relating to the activities of its principal officers.

Speed of reaction by field.—In general, it appears that the reaction time by a particular field office to the request originating with the SSS would depend upon its workload and availability of manpower. In a case where delinquent returns were secured from an individual, the cases would ordinarily be closed within 6 months after the SSS referral. However, in some instances, collection activity would extend for more than a year before the case was finally closed. (Many of these cases were referred to districts having heavy workloads.) Usually, audit cases required more time to close than collection cases. In some

cases involving complicated facts and issues, the audit activity may have extended over a period of several years.

Field and SSS communications.—As previously noted, in order to keep the SSS informed of the status of each case referred to the field, sensitive case reporting was required until approximately June, 1972. Thereafter, the SSS was to be informed periodically by memoranda as to the status of the case. In a few cases, field representatives were encouraged to contact the SSS in regard to information which was not included in the transmittal memorandum due to the confidential nature or volume of such information. In such cases, the field representative would contact the SSS by telephone or examine the material at the SSS office.

The SSS would follow up on the status of field referral cases through written or oral communications. Usually, an inquiry concerning the status of a case would be made by the SSS every 6 months if a sensitive case report had not been received within the last 3 months.

In one audit case referred to the Baltimore District concerning the exempt status of an organization which could be categorized as a "left-wing radical" organization, the staff found that there was an exceptional degree of communication directly with the revenue agent who was in charge of the investigation. In this case, the audit examination had begun before the SSS recommended an audit of the organization and there was an initial no-change determination by the field. A sensitive case report prepared by the agent indicated that an SSS analyst instructed the auditor not to close the case without checking with the SSS. Further, the agent visited the SSS office to review confidential material in the SSS file and was in frequent contact with SSS personnel. (Materials concerning this case were also furnished by the SSS to Roger V. Barth, at his request.) As of August, 1973, when the SSS was abolished and ceased recording the case status, this case was reflected as being open. The staff understands that the case was subsequently closed and that the exempt status of the organization was not revoked as a result of the examination.

Priority given to SSS referrals by field.—It appears that in most cases the field offices did not assign any greater priority to SSS referrals than to any other referrals made by a unit of the National Office.

In June, 1970, Donald O. Virdin, then Chief of Disclosure and Liaison Branch, entered into an agreement with Paul Wright, Chief of the SSS, whereby the SSS was to make some "national security" case referrals.⁵ Apparently, it was thought that SSS referrals (signed by the Assistant Commissioner, Compliance) would receive higher priority in the field than had referrals from Disclosure, which had been treated routinely by the field. However, it appears from other information described below that SSS referrals did not receive top priority.

In a memorandum of January 12, 1972, to the Director of the Collection Division, Paul Wright submitted a list of seven cases referred to the Manhattan District which were over one year old. He noted that, in many of the cases, the revenue officer assigned to the case had yet to make personal contact with the taxpayer and, as a result, there was a great delay in closing the investigations. The Internal Audit Report on the examination of the SSS for the period August 5, 1969, to June 1, 1972, also observed that the Manhattan District treated

⁵ See section VI, Coordination With Other Government Units.

investigations requested by the SSS as courtesy or miscellaneous investigations.

The Internal Audit Report also stated that a review of 36 closed cases indicated 6 cases in which the information furnished by the SSS was ineffectively utilized to establish compliance with Federal tax laws. The Report concluded that there was a need to communicate the objectives of the SSS to the field personnel involved in the investigative process.

In a memorandum of August 25, 1972, to the Assistant Commissioner (ACTS), Harold Snyder, then Director of the Collection Division, stated that the functional statement in the Internal Revenue Manual "does not effectively communicate the mission of the [Special Service] Staff to a degree whereby the field would afford these cases the priority and attention they deserve. Therefore, there is an immediate need for an appropriate vehicle to better inform regional and district offices of the nature and mission of the Staff and to establish a definite system of priorities which they should follow in handling Staff referrals."

On April 12, 1973, an Internal Revenue Manual Supplement was issued with respect to the activities of the SSS. Its stated purpose was to acquaint personnel with the SSS operation and mission and "to assure that field offices give sufficient attention to information furnished them by the Staff."

Summary of Field Referrals

Number and type of referrals.—As of August 7, 1973,⁶ the SSS had referred 225 cases to the field (excluding war tax resister referrals described in section VIII of this report) under the referral procedures described above (136 individual cases and 89 organizations). Taking into account 9 referrals which contained the names of both husband and wife, these referrals related to 234 individuals and organizations, consisting of 145 individuals and 89 organizations. In other reports, the SSS had indicated that 250 referrals had been made to the field. This total apparently included 16 known oral and written "communications" in which information concerning a taxpayer was furnished to the field. These "communications" were not formally made in accordance with the procedures described above, and there apparently was no SSS follow-up or reporting required by the field.

As between the Collection and Audit Divisions, the SSS referrals to the field were as follows:

	Collection	Audit	Total
Individuals:			
SSS referrals.....	110	126	136
Field transfers from collection to audit.....	(25)	25	
Subtotal.....	85	51	136
Organizations:			
SSS referrals.....	66	23	89
Field transfers from collection to audit.....	(17)	17	
Subtotal.....	49	40	89
Total.....	134	91	225

¹ Total includes one case referred to the Office of International Operations.

⁶ The Commissioner's decision to disband the SSS was communicated to the SSS two days before the press release of August 9, 1973, was issued. Accordingly, the SSS discontinued maintaining case status records on August 7, 1973, rather than August 9, 1973.

With respect to field referrals relating to individuals, the SSS files indicated primary affiliations with organizations that apparently can be characterized as follows:

	<i>Number</i>
"Black militant" organizations.....	63
"Anti-war" groups.....	24
"Left-wing" organizations.....	10
"Right-wing" organizations.....	7
"Civil rights" organizations.....	10
"Student activist" organizations.....	13
Other organizations, or unknown.....	9
Total individual cases.....	136

In any case where an individual was associated with two or more of the groups listed, the case was classified under the one description which appeared to be the affiliation emphasized in the SSS background material.

Based upon the emphasis placed by the SSS upon the purposes of an organization or the characterization of an organization's principal officers, the organizations may be classified as follows:

"Left-wing" organizations.....	23
"Anti-war" groups.....	19
"Underground" newspapers.....	15
"Black militant" organizations.....	6
Welfare and antipoverty groups.....	3
Religious organizations.....	3
Civic, educational, social, or other.....	20
Total	89

The classification above reflects the description emphasized in the SSS background material. It should be noted that the classifications are made on a philosophical basis for some of the organizations (e.g., left-wing) and on a functional basis for others (e.g., underground newspapers). With respect to the underground newspaper classification (which was the largest single classification made on a functional basis), almost all of the newspapers would be classified as anti-war if the classification were made on a philosophical basis.

Results of referrals in individual cases.—With respect to the individual cases, SSS records indicate that field action resulted in the filing of 157 individual income tax returns and 7 gift tax returns. According to SSS records, the net amount assessed with respect to individual cases referred to the field was approximately \$580,000 as of August 7, 1973 (including taxes and penalties). The SSS records indicate that approximately \$501,000 of the \$580,000 assessed was attributable to 4 cases. The staff understands that less than \$100,000 of the assessments have been collected but that a significant portion of the amount assessed is still in controversy.

Based on SSS records, the status of individual cases may be summarized as follows:

	Number of cases		
	Collection	Audit	Total
Open as of Aug. 7, 1973 per SSS records.....	7	12	19
Closed cases, reason for closing—Return secured or audit changes:			
Deficiency.....	10	18	28
Refund.....	7		7
No tax due.....	12	2	14
Return already filed.....	11	1	12
No return required.....	10	0	10
Unable to locate.....	20	0	20
No change audit.....	0	10	10
Refund as result of audit.....	0	1	1
Case declined by field.....	0	1	1
Other reasons.....	8	6	14
Total.....	85	51	136

Results of referrals in the case of organizations.—With respect to cases relating to organizations, SSS records indicate that field action resulted in the filing of 99 returns (38 corporate returns, 17 information returns for exempt organizations, 37 payroll tax returns, and 7 excise tax returns). According to SSS records, the net amount assessed with respect to organizations referred for field action was approximately \$82,000 (including taxes and penalties). With respect to organizations claiming exemption from income tax, the field referrals made by the SSS resulted in revocation of the favorable determination letter issued to one organization.

Based on SSS records, the status of the organization cases may be summarized as follows:

	Number of cases		
	Collection	Audit	Total
Open as of Aug. 7, 1973 per SSS records.....	4	12	16
Closed cases, reason for closing—Returns secured:			
Deficiency.....	5	4	9
No tax due.....	12	3	15
Return already filed.....	3	2	5
No return required.....	11	0	11
Unable to locate officers.....	7	0	7
No change audit.....	0	15	15
Case declined.....	0	2	2
Exemption revoked.....	0	1	1
Other.....	7	1	8
Total.....	49	40	89

Intelligence referrals.—According to the records of the Intelligence Division of the National Office, 19 cases (15 individuals and 4 organizations) referred to the Collection and Audit Division by the SSS were later referred to the Intelligence Division by those Divisions for an investigation for violation of criminal provisions. These records indicate the following disposition of the 19 cases: 6 cases closed by the Intelligence Division, 3 cases returned to the Collection Division, 4 cases returned to the Audit Division, 5 cases noted on Intelligence Division information cards, and 1 case referred to the Department of Justice. The SSS files indicate that an additional 19 cases were referred to, or considered by, the Intelligence Division. The files indi-

cate that the Intelligence Division rejected 12 of these cases and show no disposition of the remaining 7 cases.

Uncompleted cases.—As of August 7, 1973, 35 of the cases referred by SSS had not been closed by the field (19 individual cases and 16 organization cases), and 190 cases had been closed by the field (117 individual cases and 73 organization cases).

Subsequent Field Action Concerning SSS Referrals

The field referral cases examined by the staff were also reviewed to determine if there had been follow-up audit or collection activity concerning a taxpayer who had been the subject of an SSS field referral. In the course of examining the files, the staff found that in nine cases (of 149 cases examined) the scope of the initial SSS-initiated audit or investigation was expanded to include subsequent years by the agent or revenue officer. It appears this occurred because the SSS-initiated audit or investigation had not been closed before returns for the subsequent years were then required to be filed.

In addition, the staff reviewed computer print-outs of transcripts of account for taxpayers from the appropriate master file to determine if there had been any follow-up audit or collection field action. Each transcript of account furnished to the staff by the Internal Revenue Service was coded to indicate whether there had been any such action and how it originated, *i.e.*, whether the action resulted from a computer system selection or by other means. In reviewing these transcripts, the staff found that there had been subsequent audit action in six cases where selection for audit was made under a routinely employed computer processing system, designed to flag returns where potential for noncompliance appears to be present. (Several of these six cases where the return was chosen for audit action by computer process were among the nine cases discussed above.) In one other case, an organization was selected for field action under a compliance program employing a computer system that checks for delinquent returns by comparing the returns filed for a taxable year with those filed for prior taxable years.

The staff did not find any evidence that an SSS referral resulted in a taxpayer being placed on a list for future audit or collection action solely because the SSS referral had been made.

VIII. FIELD REFERRALS ON WAR TAX RESISTERS

Summary

In 1970 the SSS began to take account of what it called "war tax resisters." A "war tax resister" generally was defined as an individual or organization that refused to pay Federal income or excise taxes as a protest against the United States' participation in the Vietnam war or who encouraged others to refuse to pay taxes. (However, the staff reviewed several cases included by the SSS in the war tax resister group of cases where noncompliance occurred because of a tax protest that was not directed toward the Vietnam war.)

The SSS classified approximately 800 files as "war tax resisters," and it referred to the field 550 of these cases. These referrals occurred in two groups, the first a group of 320 cases during March-April, 1972, and the second a group of 230 cases during December 1973, after the SSS had been terminated. Unlike the other field referrals (discussed in section VII above) where the SSS recommended that the field take specific action, the tax resister referrals were sent out for the information of the field offices and for whatever action they "deemed appropriate."

Origins of SSS Activity on War Tax Resisters

Information in the SSS files indicates that SSS employees first began to take account of the war tax resistance movement early in 1970,¹ when the SSS began receiving FBI reports on this activity. However, it appears that the SSS began to focus on war tax resisters around mid-1971. On April 28, 1971, members of a war tax resistance organization held a demonstration at the National Office of the IRS in Washington, D.C. According to an SSS report, the SSS acquired copies of a tax resistance publication shortly after this demonstration and by mid-July 1971, the SSS had used this publication to establish a list of 192 individuals and organizations active in the war tax resistance movement. An SSS report also states that during June 1971, the SSS received from the FBI a list of underground newspapers in the United States and a list of the editors of these papers.²

During 1971, the SSS received additional FBI reports on tax resistance organizations and individuals, and publications the SSS received had begun to carry more articles on this topic. The SSS files also contain information indicating that some IRS field offices were having additional problems with tax resistance. (However, it is not

¹ IRS concern generally with the failure to pay Federal taxes as a war protest had developed much earlier. For example, the Internal Revenue Manual contained guidelines for the handling of war tax resistance cases as early as 1966. The guidelines originally pertained to failures to pay Federal income taxes, but by 1970 they also included telephone and transportation excise taxes.

² According to a January 1, 1972, memorandum from Paul Wright to the Director of the Collection Division, the SSS considered that underground newspapers were important to the examination of the war tax resister group because they acted as a "conduit for their movement," and contained numerous articles on how to file false returns and otherwise confuse IRS operations. "Underground newspaper" was defined to include newspapers of anti-establishment orientation which advocated violent or subversive means to achieve their ends. According to the IRS, the SSS had files on 148 underground newspapers.

clear whether the SSS became aware of these problems during 1971.)

At the end of November, 1971, the *Washington Post* carried an article on war tax resisters. Memoranda in the SSS files indicate that this article came to the attention of Commissioner Johnnie M. Walters. These memoranda also indicate that Mr. Walters was concerned about tax resisters, and his concern was communicated to the IRS employees charged with tax compliance. Memoranda in the SSS files indicate that the SSS participated in drafting a report on tax resisters (dated December 30, 1971) to the Commissioner from the Acting Assistant Commissioner (Compliance) John F. Hanlon. Mr. Walters returned this report with comments directing increased IRS action in this area. Thereafter, the SSS apparently intensified its activity dealing with war tax resisters.

Sources of War Tax Resister Files

The names for the SSS tax resister files were derived from several sources. One major source was publications, such as tax resistance newspapers and underground newspapers received by the SSS. These publications contained lists of individuals or organizations active in tax resistance. They also contained signed letters to the editor and articles on tax resistance activities. (As noted above, the names of a number of newspapers were provided to the SSS by the FBI.)

The SSS also received names of tax resisters from other units in the IRS. IRS Service Centers sent the SSS the names of tax protesters who had come to their attention because of information on returns filed with the Service Centers or letters of tax protest received by the Service Centers. Additional names and information were referred to the SSS by other IRS offices (including letters from the public complaining about the attitudes and activities of the tax resisters).

A third major source was FBI reports. As noted above, the SSS received a number of FBI reports on tax resistance individuals and organizations, and also received a list of underground newspapers.

Field Referrals of War Tax Resister Cases

According to information supplied by the IRS, the SSS had compiled files on approximately 800 war tax resister individuals and organizations. Of these 800 cases, 550 were referred to the field. The referrals of war tax resister cases were transmitted to the field in two groups, the first, a group of 320 cases sent out during March and April of 1972, and the second, a group of 230 cases sent out on December 20, 1973 (after the SSS had been formally terminated). (See section IV, Development of the Special Service Staff.) The 550 total field referrals of "war tax resisters" included 397 individuals and 153 organizations.³

First group of field referrals.—The first group of field referrals was transmitted by the SSS under a memorandum from the Assistant Commissioner (ACTS) to the District Directors. The SSS transmittal memorandum, entitled "War Tax Resisters," contained a discussion of the war tax resistance movement and a number of exhibits designed to acquaint the District Director with the scope and activi-

³The staff examination of administrative files and the other field referrals indicates that prior to March of 1972, there were several referrals of cases which could be classified as war tax resisters. A number of underground newspapers were also referred to the field under regular field referral procedures. The SSS also several times sent information concerning war tax resisters to field offices on an informal basis.

ties of this movement. A list of the individuals and organizations located in the particular IRS district to which the memorandum was sent was attached to the transmittal letter, along with tax filing history for these individuals and organizations, where this information was available. Unlike the other field referrals (discussed in section VII), these referrals did not recommend that specific action be undertaken by the field offices, but said that the district should take action as it "deemed appropriate." The transmittal also asked that a memorandum of any actions taken and results obtained be sent to Paul Wright. (The transmittal memoranda did not mention that the referrals came from the SSS.)

The staff examined a 10-percent random sample of the SSS files on this first group of war tax resister field referrals. The sample included 27 individuals and 6 organizations. The reports from the field included in the SSS files examined by the staff indicate that the referral resulted in field activity in a minority of the cases and that the field activity was by the Audit or Collection Divisions, with no indication that any Intelligence Division action occurred.

The staff examination indicates that some of these field referrals were made without previous analysis to see if there was likelihood of a tax violation. The SSS files on one of the cases referred to the field contained no evidence that the SSS had obtained and reviewed tax information (such as an Individual Master File printout) to determine whether the taxpayer may have failed to comply with the tax laws. In another case the Individual Master File printout showed that tax returns had been filed for all prior years with no balances owed; on this printout an SSS employee had noted that there was no basis for audit action. However, approximately one month later this case was referred to the field.

Not all of the cases in the first group of referrals involved "war" tax resisters. One organization referred to the field was a tax protest group generally classified as an "extremist White racist" group; there was no indication that this group was anti-war. Similarly, another case involved an individual who opposed the progressive income tax rate structure, and there was no indication this individual was anti-war.

Second group of field referrals.—The second group of field referrals was sent out on December 20, 1973, using a different form of transmittal memorandum than was used with the first group. The transmittal memorandum for these referrals was entitled "Information Items" and the District Directors were advised that the attached materials were forwarded for their information and for whatever action they "deem appropriate." The memorandum also advised that it was not necessary to report any action taken, as was required with the earlier group of referrals. (Apparently no reply was requested because the SSS had been terminated.) Finally, there was attached a list of the individuals and organizations with their tax filing history, if this information was available.

The staff also examined the SSS files of a 10-percent random sample of this group of field referrals. This sample included 22 individuals and one organization. Printouts from the Individual Master File were obtained by the SSS for all of the 22 individuals examined; a master file printout was requested by the SSS for the one organization (but none was found because the organization had never obtained an Em-

ployer Identification Number). In comparison with the first group of field referrals, the SSS files on these referrals contained considerably more information indicating possible noncompliance with the tax laws, to support the referral of these cases to the field. (According to the SSS files, two of the names in the staff sample did not involve tax resisters and two of the names were derived from the Justice Department's "Inter-Divisional Information Unit" list, described in section VI above.)

IX. COORDINATION WITH EXEMPT ORGANIZATIONS BRANCH

Summary

Under a written operating procedure, certain exempt organization cases handled by the National Office were coordinated with the SSS. If a case involved a so-called "activist organization," the case was classified as an SSS case by the Exempt Organizations Branch¹ (the E-O Branch) and referred to the SSS in order that they might have an opportunity to see open case files pertaining to these organizations. The SSS would, in turn, flag those cases in which they were interested, request additional information from various agencies, and forward this information to the E-O Branch for its consideration in disposing of the case. Much of this information concerned officers or other individuals associated with the organizations seeking exemption.

During the period that the SSS was in existence, approximately 153 cases were referred to it by the E-O Branch. The SSS expressed an interest in 80 of these cases. In several cases, the SSS went beyond merely furnishing information to the E-O Branch and recommended a particular disposition of the case.

Although the SSS attempted to influence a decision of the E-O Branch in several cases in which they had expressed an interest, the staff, after analyzing the cases, found that the SSS played little, if any, part in the disposition of the substantive issues in the case. At an early stage in the operations of the SSS, it was established that the SSS was not to have a role in the determination of exempt status under the tax law. However, confidential information submitted by the SSS was used by the E-O Branch in several cases as a basis for requesting additional information from the organization seeking exemption. In addition, this information was considered in determining whether the organization's operations should be audited in the near future.

Finally, a review of the files showed that coordination with the SSS resulted in a delay in the rulings process. In many cases in which the SSS expressed an interest, the disposition of the case was delayed for a period of approximately one to three months, primarily as a result of coordination with the SSS.

Procedure for SSS Coordination With Exempt Organizations Branch

On July 24, 1969, the newly formed SSS (then known as the Activist Organizations Committee) held an organizational meeting "to establish basic communications between the various functions of the Internal Revenue Service and to furnish an overall picture of the purpose and sensitivity of this Committee." A representative of the E-O Branch attended this meeting. In a summary memorandum

¹ Unless otherwise indicated, references to the Exempt Organizations Branch are made in this report to the organizational unit under the jurisdiction of the Assistant Commissioner (Technical) which has functional responsibilities in connection with issuing rulings or determination letters concerning exemption of an organization rather than to the Exempt Organizations Examination Branch under the jurisdiction of the Assistant Commissioner (Compliance) which is charged with audit responsibilities.

of the meeting, it was indicated that the SSS expected the E-O Branch "to play an active part" because of the type of organizations involved.

In response to this meeting, the E-O Branch agreed to give the SSS an opportunity to comment on a case in the National Office before taking favorable action (*e.g.*, recognizing exempt status) with respect to so-called "activist" organizations—those that were classified as "ideological, militant, subversive, radical, and similar organizations."²

On September 26, 1969, the Director of the Miscellaneous and Special Provisions Tax Division (the E-O Branch is a part of this Division) sent a memorandum to the Assistant Commissioner (Technical) advising him that procedures were being set up to coordinate the E-O rulings program with the SSS. In the memorandum, it was stated that "The thrust of the procedures we propose is to give Compliance³ the maximum cooperation, to facilitate the exchange of information without delaying the rulings program, to take maximum advantage of information available to Compliance that may prevent the issuance of rulings on the basis of inaccurate or incomplete facts, and at the same time to preserve the procedural rights accorded to taxpayers by Rev. Proc. 69-3,⁴ and to preserve the principle that rulings are based on an even-handed application of the law to the facts presented."

In order to implement an exchange of information with the SSS, the E-O Branch developed an operating procedure for handling cases involving activist organizations which might be of interest to the SSS. This operating procedure was issued on November 13, 1969. Under the procedure, a representative of the E-O Branch was to serve as coordinator between the E-O Branch and the SSS. A list containing the names of 99 organizations that the SSS was initially concerned with was attached to the procedure.⁵ Any case involving one of these organizations was to be designated as a "committee case" and routed to the coordinator for referral to the SSS (then called the Activist Organizations Committee). In addition, the group chief in

² Applications for recognition of exemption generally were submitted by the organization seeking exemption to the appropriate District Director of the IRS; beginning in February 1970, applications were forwarded by the District Director to the appropriate key district. Generally, the District Director would then review the application and issue a determination letter. However, the District Director was not authorized to issue a determination letter if the case: (1) presented or involved questionable issues not covered by established rules or published precedents; (2) involved a group ruling or a ruling supplemental to a group ruling; or (3) involved a matter of potential extensive public interest (*e.g.*, where an IRS position may have given rise to widespread controversy or where a subversive organization is involved). Applications that were determined to be within these three classifications were forwarded to the National Office for decision. In addition, the organization seeking exemption could request that the District Director submit the case to the National Office for technical advice if the organization received an adverse determination from the District Director. If the organization requested technical advice, the District Director was required to send the case to the National Office.

Cases could also be referred to the National Office involving the modification or revocation of an organization's existing exemption. Generally, after examining an information return or considering information from other sources showing that an organization's exemption should be modified or revoked, the District Director would notify the organization of its proposed action, including the reasons therefor, and advise the organization of its right to a district office conference. The organization could waive its right to a district office conference and request that the case be referred to the National Office for consideration.

³ The SSS was then under the jurisdiction of the Assistant Commissioner (Compliance).
⁴ These procedural rights include the right to protest the proposed action, the right to a district office conference, and the right to request referral of the case to the National Office.

⁵ This was the list of the "original" organizations the SSS worked on. The list included 22 organizations that were the subject of an inquiry by the Permanent Subcommittee on Investigations of the Senate Government Operations Committee, 55 organizations that were the subject of an inquiry to the field by the Assistant Commissioner (Compliance) on July 14, 1969, and 22 organizations that were the subject of another inquiry to the field by the Assistant Commissioner (Compliance) on October 8, 1969. See section V, Special Service Staff Files.

the rulings section of the E-O Branch was to select and route "similar cases" to the coordinator for referral to the SSS.

Under the procedure, the SSS would then indicate to the E-O Branch whether it was interested in the organization or not, and would attach any information that it felt should be considered by the E-O Branch in disposing of the case. Any information supplied by the SSS was to be treated as confidential, unless the SSS specifically authorized disclosure in writing. Confidential information was not to be used as a basis for any ruling action by the E-O Branch, but was to be used "as a source of leads for the development of information on which to base a ruling."

If the E-O Branch decided that the taxpayer was not to be treated as exempt, the procedure provided that this fact was to be conveyed to the SSS. If the E-O Branch decided that the taxpayer was to be treated as exempt, the proposed favorable action was to be forwarded to the Exempt Organizations Conference and Review Staff for review. Under the procedure, if the Conference and Review Staff concurred with the decision of the E-O Branch, the case was to be routed to the SSS before the final action was signed. If the SSS had objections to the issuance of a favorable determination, the basis for their objections was to be given full consideration by the Conference and Review Staff. If the Conference and Review Staff, after reviewing the SSS comments, determined that a favorable determination was still "legally required under the applicable law," the case was to be submitted to the Chief Counsel for concurrence or comments. The procedure further required that if the Chief Counsel concluded that a favorable determination was appropriate, the case was to be forwarded for further review to the Office of the Assistant Commissioner (Technical). Notification that the case was being sent to the Assistant Commissioner (Technical) was to be given to the SSS to permit them to present their views at the Assistant Commissioner's level.

Methods of Coordination—In General

Upon receipt of an exempt organization case referred to the National Office by the district, the tax law specialist to whom the case was assigned would usually review the case to determine if it were likely that the SSS would have an interest in it. If he thought the SSS would be interested, after consultation with his supervisor or branch chief, the tax law specialist would submit the case file to the person designated as the coordinator with the SSS. The coordinator would then transmit the case file to the SSS. A group of files would generally be transmitted to the SSS by the coordinator on a weekly basis.

At the time the file was transmitted to the SSS, it usually contained the appropriate IRS application form, together with necessary attachments such as the organization's articles of incorporation, list of principal officers, and description of its anticipated operations. The file would also contain the document prepared by the district office to refer the case to the National Office, which indicated the reason for referral, *e.g.*, sensitivity of the case.

The SSS would examine the E-O Branch files to determine whether the organization was one in which it was interested. In order to make this determination, the SSS occasionally would also seek additional information concerning the organization (or individuals closely con-

nected with the organization) from the Intelligence Division of the IRS, the Alcohol, Tobacco and Firearms Division of the IRS, the FBI, the House Internal Security Committee the Internal Security Subcommittee of the Senate Judiciary Committee, or the Senate Government Operations Committee. The SSS would also review its existing files to determine if information had been previously received with respect to the sponsors or principal officers of the organization.

If the SSS determined it was interested in a particular organization, and did not have an existing file on the organization, the SSS would normally set up its own file and request additional information from the FBI concerning the organization or its officers. The SSS would then return the E-O Branch file by memo routing slip to the E-O Branch indicating that it was either interested or not interested in the organization.

In cases where the SSS expressed an interest, it would attach to the routing slip any information it had obtained that it felt should be considered by the E-O Branch. Occasionally, where there was a time lag in obtaining information, the SSS would indicate that it had an interest in the organization and that information would be forwarded to the E-O Branch at a later date. If the SSS indicated an interest in a case, a card was attached to the E-O Branch file jacket to indicate this fact.

The information forwarded by the SSS was obtained from various sources, such as FBI reports (or summaries of these reports), newspaper clippings, magazine articles, reports from the Intelligence and Alcohol, Tobacco and Firearms Divisions of the IRS, hearings conducted by congressional committees and memoranda prepared by the SSS. Much of this information concerned the associations, activities, and affiliations of the principal officers of the organization. For example, an individual's arrest record or his affiliation with radical or extremist groups would be summarized from FBI reports.

After the E-O Branch had developed its proposed ruling position in a case in which the SSS indicated interest, the file would be resubmitted to the SSS to determine if the SSS had any further comments or information to be considered.

In reviewing the SSS and E-O Branch files, the staff found only two cases which were considered for referral to the Chief Counsel's Office in accordance with the E-O Branch Operating Procedure provisions. In both cases, referral to the Chief Counsel's office was suggested by the SSS. However, in neither case was a referral formally made because a representative of the Chief Counsel's office informed the E-O Branch that the office had no interest in the cases since no legal issues were involved.

Of the 153 cases referred from E-O Branch to SSS, the SSS indicated that it had an interest in 80 of these cases and indicated no interest in the remaining 73. Of the 80 that the SSS was interested in, apparently 14 involved organizations that were specifically listed in the attachment to the E-O Branch operating procedure. (That is, apparently 14 were on the list of the "original" organizations.)

Function of SSS and Use of SSS Information

At the beginning, it was unclear exactly what role the SSS would play in the exemption process. In his staff interview, Paul Wright in-

licated that he felt the SSS function was to furnish information to be considered by the E-O Branch rather than recommend positions to be taken with respect to a case, since the SSS did not have the expertise to address the substantive legal issues involved in a case. However, the E-O Branch operating procedure did not limit the SSS function to furnishing information but could be reasonably interpreted to mean that the SSS would have a role in the ruling process with respect to substantive issues. Moreover, in several cases reviewed by the staff, the SSS specifically recommended that the organization should not be granted a tax exemption.

Additionally the information submitted by the SSS created several problems for the E-O Branch. In many cases, the information sent to the E-O Branch related to the character of the individuals who were associated with the organization, rather than relating to the organization itself. It appeared that the SSS felt that an unfavorable ruling should be issued in cases where it had obtained information that showed that certain individuals were militants, agitators, etc., and had extensive arrest records.

The E-O Branch questioned the relevancy of much of the information submitted by the SSS. Even where the information appeared to be relevant, the E-O Branch operating procedure stated that confidential information could not be used as the basis for a determination of exempt status, but should only "be used as a sources of leads for the development of information on which to base a ruling." Further, questions arose as to whether information relating to the character of individuals associated with an organization could be used where an organization had not begun its actual operations, but had met the organizational requirements for exemption and had provided the IRS with a proposed plan of operations that, if carried out, would meet the operational tests for exemption. These questions were ultimately resolved by the Commissioner of IRS after a series of meetings relating to two particular organizations seeking exemption.

These two cases arose shortly after the issuance of the E-O Branch operating procedure to coordinate information with the SSS, and involved organizations in which the SSS had indicated an interest and in which the E-O Branch was proposing to issue a favorable ruling. In both of these cases, the SSS had obtained confidential information from the FBI, partly concerning the organizations involved, but primarily concerning individuals who were either officers of the organizations or were to be actively involved in the activities of the organization. Summaries of this confidential information were forwarded by the SSS to the E-O Branch pursuant to the operating procedure. These summaries stated that certain individuals involved with the organizations were known to be "militants" and "agitators" and had provoked riots in the past. In addition, the SSS sent to the E-O Branch a summary of the criminal arrest records of certain of these individuals. After reviewing the information submitted by the SSS, the E-O Branch nevertheless concluded that the two organizations were entitled to Federal tax exemption under section 501(c) (3) of the Internal Revenue Code. Proposed favorable rulings were prepared and copies were forwarded to the SSS. However, in view of the interest expressed, the information submitted by the SSS and the newly

implemented operating procedure, the E-O Branch requested a meeting with the Assistant Commissioner (Technical).

According to memoranda reviewed by the staff, this meeting was requested in order to clarify the function of the SSS in the rulings process and to establish guidelines concerning the use of confidential information furnished by the SSS. The E-O Branch felt that the disposition of these two cases would establish a precedent for handling future cases where the SSS disagreed with proposed favorable action by the E-O Branch. In presenting the issues in a memorandum to the Assistant Commissioner (Technical), the E-O Branch expressed concern with respect to the extent to which confidential information should be used as the basis for ruling action by the IRS, especially when that information related to individuals and officers of the organization and the organization would otherwise appear to meet the technical requirements for exemption.

IRS memoranda indicate that after reviewing the two cases, the Assistant Commissioner (Technical) submitted a proposed favorable ruling in each case to the Commissioner for his consideration and comments. The Assistant Commissioner (Compliance) also submitted a memorandum with his recommendations to the Commissioner for his consideration. In his memorandum, the Assistant Commissioner (Compliance) recommended that as to one of the organizations, a field review of its activities be conducted before issuing a favorable ruling, and as to the other organization a favorable ruling be issued, but an audit of its operations be conducted approximately six months later. Shortly thereafter, according to a memorandum in the files and interviews with IRS personnel, a meeting was held by the Commissioner to resolve these two cases.⁶ It was decided that favorable rulings would be issued in both cases, but that a paragraph would be inserted in the ruling letters advising the organizations that they should anticipate an audit in the near future.

In effect, the decisions in these two cases established that the functional role of the SSS in the rulings process was to collect and disseminate information and not to take part in the substantive determination of exempt status of an organization. Secondly, it was established that the confidential information was not to be used as a basis for any ruling action but was only to be used as a source of leads for the development of additional information on which to base a ruling or to indicate that the organization's operations should be audited at a date in the near future.

Number of Cases Referred and Dispositions

During the period from July, 1969, until August 7, 1973,⁷ approximately 153 cases were referred to the SSS by the E-O Branch. (According to the records of the E-O Branch, 153 cases were referred to the SSS, and according to the log book maintained by SSS, 154 cases

⁶ The meeting was attended by the Assistant Commissioner (Technical), the Assistant Commissioner (Compliance), a representative from the SSS, representatives from the E-O Branch, and various other individuals.

⁷ The Commissioner's decision to disband the SSS was communicated to the SSS two days before the press release of August 9, 1973, was issued. Accordingly, the SSS discontinued maintaining case status records on August 7, 1973, rather than August 9, 1973.

were received from the E-O Branch.⁸) These organizations appear to be primarily characterized as follows:

"Activist students"-----	11
"Anti-war"-----	20
"Black militant"-----	48
"Civil rights"-----	27
"Left wing"-----	4
"Right wing"-----	16
Both "black militant" and "civil rights"-----	13
Other-----	14
Total -----	153

The disposition of these cases can be classified under seven basic categories: (1) those receiving a favorable ruling or a favorable response to a request for technical advice; (2) those receiving an unfavorable ruling or an unfavorable response to a request for technical advice; (3) those which were issued a "pro forma" denial of exempt status⁹; (4) those that withdrew their application for recognition of exempt status; (5) those which were issued a "no ruling letter"¹⁰; (6) those whose exempt status was revoked; and (7) those in which a determination has not yet been made. The following table summarizes the disposition of the 153 cases that were referred to the SSS by the E-O Branch.

Favorable-----	89
Unfavorable-----	20
Pro forma denial-----	28
Withdrawals-----	1
No ruling letter-----	9
Revoked-----	2
Open ¹ -----	4
Total -----	153

¹ As of the date of this report.

If only the 80 cases in which the SSS expressed an interest are considered, the case dispositions are as follows:

Favorable-----	42
Unfavorable-----	12
Pro forma denial-----	15
Withdrawal-----	1
No ruling letter-----	7
Revoked-----	2
Open-----	1
Total -----	80

An analysis of the files indicated that much of the information submitted to the E-O Branch was not relevant to a determination that the organization was organized and operated for exempt purposes. In addition, in a few instances, the staff found that the SSS would recommend on the memorandum transmitting information to the E-O Branch that a favorable ruling not be issued or

⁸ In addition, a few cases were referred to the SSS on an informal basis prior to issuance of the E-O Branch operating procedure. However, it was not possible for the staff to determine the precise number since adequate records were not maintained prior to this time.

⁹ A pro forma denial is issued if the organization seeking exemption does not timely respond to a request by the IRS for additional information.

¹⁰ A no ruling letter is issued if the proposed activities of the organization are indefinite and are not described in sufficient detail to permit the IRS to make a proper determination that the proposed activities will clearly meet the particular requirements under which exemption is claimed.

that the activities of the organization be examined prior to the issuance of a ruling. It is arguable that the SSS improperly attempted to perform functions delegated under IRS procedural regulations to the E-O Branch by recommending substantive positions regarding the organizations' exempt status. Under the IRS procedural regulations, the determination of whether an organization should be granted exemption from tax is the function of the E-O Branch.¹¹

In addition, it appears that little purpose was served by forwarding information concerning the character of officers or other individuals associated with the organization. For example, the fact that a former director of an organization was shot to death should have little bearing on whether the organization qualified for exemption (especially with respect to the organization's likely future operations).

In some cases, coordination with the SSS did not result in a delay of more than several days in the rulings process. However, in many cases in which the SSS expressed an interest, the rulings process was delayed for one to three months. In one case, reviewed by the staff, the issuance of a ruling was delayed for approximately 5 months primarily as a result of coordination with SSS. In several SSS cases, personnel in the E-O Branch found it necessary to apologize to the taxpayer and respond to Congressional inquiries as to the reason for the delay.

Although the SSS did attempt to influence the decision of the E-O Branch in several cases, it apparently was unsuccessful in doing so. The E-O Branch submitted test cases to IRS top management in order to clarify the function of SSS in the ruling process. As a result of this meeting, the role of the SSS was limited to collecting and disseminating information. In light of this and the staff's review of the E-O files, it appears that the E-O Branch did not permit an SSS recommendation to dictate a disposition which the E-O Branch believed to be improper.

¹¹§ 1113.925 of Statement of Organization and Functions of the IRS.

X. PREVIOUS "IDEOLOGICAL ORGANIZATIONS" PROJECT

Introduction

During its investigation of the SSS, the Joint Committee staff learned that in 1961 and later years the Internal Revenue Service had engaged in a special project dealing with "Ideological Organizations."¹

Since it appeared that the Ideological Organizations project may have involved political influence on the IRS to examine organizations similar to that involved with the Special Service Staff, the Joint Committee staff conducted an examination of this project. The staff's examination was conducted generally in the same way as its examination of the SSS. The staff reviewed administrative documents relating to the Ideological Organization project, interviewed seven people involved in the project, and also reviewed National Office files on organizations involved in the project.

Summary

In the fall of 1961 the Internal Revenue Service began an examination of extremist right-wing organizations. By spring 1962 the program included both left-wing and right-wing organizations; under this program, a total of 22 organizations were examined, 12 right-wing and 10 left-wing. This program apparently was stimulated by a public statement of President John F. Kennedy and also a suggestion by Attorney General Robert F. Kennedy. The first-phase program was substantially completed by mid-1963.

In the summer of 1963 the Service began another program of examining extremist organizations; in some respects, however, this was an outgrowth and a continuation of the first program. The second program apparently was stimulated by White House communications to the Internal Revenue Service, including a telephone call from President Kennedy to Commissioner Mortimer M. Caplin. This program involved 24 (later 25) organizations. While the program originally was to be balanced between both right and left-wing organizations, in practice it appears that 19 of the 25 organizations examined were right-wing. (This characterization was made by the IRS.)

Under the first-phase program, the National Office directed the field to audit the organizations in question, but there was little involvement of the National Office in the audit process itself. In the second-phase program the field, at the direction of the National Office, collected information for the National Office. The National Office then analyzed these facts to determine if each organization in question should be treated as tax-exempt. This project included a study of organizations

¹ In the course of the project, this term was defined to mean "organizations seeking to educate the public in currently controversial fields." The organizations "direct their efforts toward influencing the beliefs or actions of others with reference to certain predetermined governmental, social or economic ends." (September 9, 1963, memorandum to Commissioner Mortimer M. Caplin from Mitchell Rogovin, Assistant to the Commissioner.)

that might be engaged in activities that could raise questions about their exempt status (*e.g.*, whether they properly could be treated as tax exempt "educational" organizations).

The staff has found no evidence that the White House or the Attorney General supplied names of organizations to be audited. However, a member of the White House staff reviewed the list of organizations proposed for the second-phase audit program and suggested that two organizations be deleted. These organizations were deleted from the list for audit, although one was subsequently added back. Additionally, it was reported that the Attorney General suggested that the IRS move its investigation of one particular organization along in rapid fashion.

The first-phase program was largely completed by July 1963. (In some cases, the examination of an organization was not complete and it was made part of the second-phase program.) By this time, it appears that the IRS had recommended revocation of the exempt status of two right wing organizations and had notified another right wing organization that its exempt status would be revoked. Also, there were adjustments on audit with respect to two non-exempt right wing organizations, and there had been a disallowance of deductions in one case for contributions to a non-exempt organization. The staff did not find any information, that the IRS made any adjustments on audit, or revocation of exempt status, with respect to the left wing organizations in the first-phase program.

The second-phase program was largely underway by the end of 1963. For the most part, it was completed by 1966. By 1967, the exempt status of 4 organizations examined under the program had been revoked; of these organizations, 3 were right-wing and 1 was left-wing. (In the case of one of the right wing organizations, revocation had been recommended in the first phase program.)

First-Phase Program

Presidential statements, etc.—In November 1961, President John F. Kennedy spoke in Seattle, Washington (November 16, 1961) and in Los Angeles, California (November 18, 1961), criticizing right-wing extremist groups. Later that month (November 29, 1961), at a news conference, President Kennedy was asked about financial contributions to right-wing extremist organizations. President Kennedy answered the question by stating that as long as the requirements of the tax laws are met, "I don't think that the Federal Government can interfere or should interfere with the right of any individual to take any position he wants. The only thing we should be concerned about is that it does not represent a diversion of funds which might be taxable to—for nontaxable purposes. But, that is another question and I'm sure the Internal Revenue System examines that."²

In addition to President Kennedy's statement, there was interest shown in right-wing organizations by the Justice Department. In his interview with the staff, Mitchell Rogovin, then Assistant to the Commissioner, said that on November 16, 1961, he received a telephone call from John Seigenthaler, then Special Assistant to Attorney General Robert F. Kennedy. Mr. Rogovin said that Mr. Seigenthaler asked

² *Public Papers of the Presidents of the United States, John F. Kennedy, January 20 to December 31, 1961*, at 762 (U.S. Government Printing Office 1962).

about the tax-exempt status of four or five organizations generally considered to be right-wing. Mr. Rogovin said that, in response, Mr. Seigenthaler was told whether or not these organizations were exempt and whether the organization had been audited recently. (A letter of May 15, 1962, from Commissioner Mortimer M. Caplin to Attorney General Kennedy refers to this inquiry from Mr. Seigenthaler.)

In his interview with the staff, Mr. Caplin said he had no recollection of this inquiry from Mr. Seigenthaler. Mr. Caplin also said that he did not recall President Kennedy's news conference or the reaction of the Service to the conference.

Mr. Seigenthaler said, in his staff interview, that his calendar shows several telephone calls with Mr. Rogovin during the period November 13, 1961, to December 1, 1961, but does not show a telephone call or a meeting with Mr. Rogovin on November 16, 1961. Mr. Seigenthaler told the staff that he does not recall the subject of these calls and that his date book does not show the subject. He also said he does not recall any discussion or inquiry with Mr. Rogovin regarding right-wing groups.

A later memorandum (July 11, 1963) from Commissioner Caplin to Myer Feldman, then Deputy Special Counsel to the President, links the first-phase audit program to President Kennedy's November 1961 news conference, and to a "suggestion of the Attorney General" that the Service review its activities "on the tax status of certain extremist organizations."³

Response by the Service.—On November 30, 1961, William H. Loeb, then Assistant Commissioner (Compliance), sent a memorandum to Dean Barron, Director of the Audit Division, regarding President Kennedy's news conference of November 29, 1961. Mr. Loeb attached a newsclipping about the press conference, and stated in the memorandum "You will note the President's references to the fact that 'As long as they meet the requirements of the tax laws,' etc. I think it behooves us to be certain that we know whether the organizations are complying with the tax law as a matter of fact." Mr. Loeb's memorandum stated that "I have asked Mr. Rogovin to ascertain the names of some of the organizations that we might use for a sample check. Please have someone contact him to secure the same in order that appropriate audits may be made."

In a memorandum of December 20, 1961, Mr. Rogovin supplied Mr. Barron with a list of 18 organizations. The bulk of these organizations apparently came from articles appearing in *Newsweek* and *Time* magazines.

An audit of some of these organizations was begun in early 1962. According to a March 9, 1962, memorandum, from the Director of the Audit Division, to the Assistant Commissioner (Compliance), on January 25, 1962, the National Office Audit Division requested that the Regional Commissioners in New York and San Francisco begin examinations of "six large corporate taxpayers" who were alleged financial backers of "extremist groups." Additionally, the March 9, 1962, memorandum states that (on that date) the National Office

³ The memorandum begins by stating: "In the fall of 1961, at the suggestion of the Attorney General, the Revenue Service reviewed its activities on the tax status of certain extremist organizations. In November 1961, a test audit program of 22 alleged extremists groups on both sides of 'center' (list attached) was begun. . . ."

Audit Division sent a similar request to the Assistant Regional Commissioner (Audit) in San Francisco, asking that examinations be made of three right-wing organizations. In addition, requests for the examination of eight additional right-wing organizations were contemplated. Both exempt and non-exempt organizations were to be included in this audit program.

At this early stage, the program appeared to be focused entirely on right-wing organizations. It appears, also, that this focus concerned some people in the Service. In the March 9, 1962, memorandum, it was stated that "We have used the term 'political action organization' rather than 'right-wing organization' throughout this discussion. This has been done to avoid giving the impression that the Service is giving special attention to returns filed by taxpayers or organizations with a particular political ideology." However, by the spring of 1962 the program had become balanced between right-wing and left-wing organizations.

By May 1962, the audit program included 12 right-wing organizations and 10 left-wing organizations. In his interview, Mr. Rogovin said that he felt very strongly that there should not be an audit program of one side of the problem, and that the program should not include only right-wing organizations, but should be balanced out, left, center, and right.⁴

It appears that some of the right-wing organizations in the audit program were chosen from the list of 18 organizations (described above) that were found in *Time* and *Newsweek* magazines and submitted to the Audit Division by Mr. Rogovin in December, 1961. In his staff interview, Mr. Rogovin said that he did not ask Mr. Seigenthaler or anyone else outside the Service about choosing the rightwing organizations to be audited. However, Mr. Rogovin said that he did have difficulty obtaining the names of left-wing organizations and said that he may have asked the FBI for names of these organizations.

In his interview, Mr. Caplin said that it was very unlikely he would have talked with Mr. Rogovin about the names of the organizations to be audited. Mr. Caplin also said that he did not know the sources of the organizations which were chosen for audit under the first-phase program.

Reports to Undersecretary Fowler and Attorney General Kennedy.—As noted above, by mid-May, 1962, the first phase program included both right-wing and left-wing organizations. In a report (May 14, 1962) to Undersecretary of the Treasury Henry Fowler, Commissioner Caplin listed 12 right-wing "extremist groups" whose activities were being examined by the field at the direction of the National Office. Additionally, "to avoid any possible charges that the Service is giving special attention to a group with a particular ideology," the memorandum states that the Service is planning to examine the returns of left-wing organizations; 10 such organizations to be audited are listed in the memorandum. Also, the memorandum states that not only are these groups to be examined, but the Service will "be alert for non-compliance" by financial backers of such groups.

⁴ In a memorandum of April 2, 1962, to Mr. Loeb, Mr. Rogovin stated that "When the test audit program regarding political action organizations was first considered it was agreed organizations on both sides of 'center' would be examined." A list of "alleged left of center" organizations was attached to this memorandum.

A similar report (including the names of the 22 right- and left-wing organizations being audited) was sent the next day in a letter to Attorney General Robert F. Kennedy from Commissioner Caplin.

In his staff interview, Mr. Caplin said that Undersecretary Fowler had special responsibilities with respect to the Internal Revenue Service and that there were frequent briefings of Mr. Fowler with respect to unusual activities and activities of special significance taking place in the Service. Mr. Caplin indicated that it would not be unusual to include in a report to Mr. Fowler the names of the taxpayers involved in such a test-audit program.

Mr. Rogovin said, in his staff interview, that Commissioners have historically reported to the Undersecretary or an Assistant Secretary of the Treasury with respect to matters of significance and sensitivity. Mr. Rogovin stated that the Ideological Organizations program was not secret and that this type of report was common.

Mr. Caplin and Mr. Rogovin also said that the letter to Attorney General Kennedy was to keep him advised because of his prior interest (or that of Mr. Seigenthaler) in this area.

Development of first-phase program.—A little over one year later (on May 24, 1963), Commissioner Caplin sent a report to Undersecretary Fowler describing the status of the first phase program. By this time, eight right-wing organizations had been audited, four of those organizations had claimed tax-exempt status, and four did not. Of the exempt organizations, revocation of exemption was recommended by the field offices in two cases. In the other six cases, no changes in tax liabilities were recommended.

Of the left-wing groups, five had been audited by May 24, 1963, including two exempt organizations. The report to Undersecretary Fowler does not indicate that any changes were recommended as a result of these examinations.

Also, in the course of the program, one taxpayer had been found who had claimed a deduction for payments to a non-exempt political action organization.

By this time, the National Office had decided that the field could not readily handle this kind of audit program. In his May 24, 1963, report to Undersecretary Fowler, Mr. Caplin stated that this type of audit is quite different from other examination work because it was necessary (with respect to exempt organizations) to determine if a substantial part of the activities of the organization is the carrying on of propaganda. Consequently, the files on all examinations being conducted under the program had been brought to the National Office for study and recommendation. Additionally, Mr. Caplin noted that the Service had tentatively concluded that future efforts in this area should be directed to exempt organizations, and that after the first phase program was completed, the Service would determine the need for increased audit activity on political action organizations. Attached to the May 24, 1963, memorandum to Mr. Fowler was a synopsis on each organization examined by that time under the program.

Mr. Caplin, in his interview, stated that he did not recall the memorandum to Undersecretary Fowler of May 24, 1963. Additionally, Mr. Caplin stated that the Service was concerned with how an ideological organization is to be defined and how this was to be distin-

guished from an educational activity. Also, Mr. Caplin said there was concern with how a revenue agent could audit an organization like this, since agents are accounting-oriented and generally are not trained to judge whether an organization is a political action organization or an educational organization. Mr. Caplin said that he thought the first-phase program was a sample audit, in a balanced manner.

Mr. Rogovin told the staff that any organization that expressed ideological concerns and called itself "educational" was a problem for the Service to audit, because of the usual financial focus of an audit and because of the definition of "educational." Mr. Rogovin said that it was believed a National Office project could assist the auditing agents.

Second-Phase Program

White House communications.—In summer 1963 (July 5, 1963), Myer Feldman, then Deputy Special Counsel to the President, requested a report from Commissioner Caplin about Internal Revenue Service activities involving "extremist groups." In their staff interviews, Mr. Feldman and Mr. Rogovin indicated they thought Mr. Feldman's inquiry may have been oral. Mr. Feldman also thought the inquiry might have arisen in the course of preparing for a press conference.

About a week later (July 11, 1963), Commissioner Caplin replied to this request with a memorandum on Revenue Service activities concerning extremist groups. Mr. Caplin's memorandum describes the history of the first phase program, including an up-to-date summary of the results of the field audits. By this date, the revocation of exempt status of two right-wing organizations had been recommended, and one other right-wing organization had been notified that the Service intended to revoke its exemption. In addition, deductions had been denied for contributions or subscription purchases for a right-wing publication by at least one corporate taxpayer. Also, adjustments had been proposed with respect to two right-wing organizations that were not tax exempt. With respect to left-wing organizations, Mr. Caplin's memorandum states that nine examinations had been completed. However, the memorandum does not state whether the exempt status of any left-wing organizations had been revoked or whether there had been any adjustments with respect to non-exempt left-wing organizations.

Mr. Caplin's memorandum to Mr. Feldman described the administrative difficulties involved in having a revenue agent audit an "educational" organization to determine if the organization provided a full and fair exposition of pertinent fact. The report additionally stated that the Service was discussing with the Treasury the possibility of legislative changes. Legislative changes were suggested to better define and limit political action of exempt organizations and to curtail certain deductions used to support extremist causes. In addition, this memorandum indicated that there were future plans for an expanded audit program of ideological organizations.

On July 23, 1963, President Kennedy called Commissioner Caplin regarding his memorandum to Mr. Feldman. Mr. Rogovin's notes about that call state that President Kennedy wanted the Service "to go ahead with aggressive program—on both sides of center." These

notes indicate that President Kennedy also mentioned that Senator Yarborough may hold hearings on this problem in January.

Mr. Caplin said in his staff interview that he believes President Kennedy's call occurred because Mr. Feldman might have thought that the Service was dragging its feet and was not aggressive enough. Mr. Caplin stated that he said to President Kennedy that if there was to be any program in the ideological field, it had to be on both sides of center.

Response by the Service.—On July 26, 1963, a Revenue Service task force met on "political action organizations." There were five people at this meeting, all from the Service; Mr. Rogovin chaired the meeting. This appears to have been the first such meeting after the telephone call to Commissioner Caplin from President Kennedy and appears to have been the beginning of the second-phase project, although to some extent it was a continuation of the first-phase program.⁵ (In his interview, Mr. Caplin said he did not recall telling Mr. Rogovin to do anything specific with respect to the telephone call from President Kennedy.)

A memorandum of the meeting of July 26, 1963, sets out the way this project would be approached. The project was considered to be an "extension of the technical advice procedure," with the National Office advising the field with regard to certain organizations and their activities. This memorandum states that under the program, a list of right-wing and left-wing organizations was to be prepared; two employees of the Service were to start this work. The project was to "first deal with right-wing groups." The cases in the first phase program were to be absorbed in the new project. The field was to collect information on the organizations involved. The National Office then would analyze the cases and advise action to be taken by the field. The memorandum states that Mr. Rogovin emphasized that the Service is to "go up the middle"; the program is "directed to both extremes;" the object is to be sure "that tax-exempt money is not being used for political purposes."

In his interview with the staff, Frank Chapper, then Technical Advisor to the Division Director of the Tax Rulings Division and who participated in the second-phase program, said that he did not know about any White House interest in the ideological organization project. However, he feels that the technical organization of the Service was interested in an in-depth study of ideological organizations because experience to that point had been very troublesome. Mr. Chapper said that the goal of the project was to come up with workable guidelines as to how to approach an audit or inquiry into the activities of an ideological organization.

By early August, 1963, a list had been made of organizations where there was "probable cause" for the Service to proceed to examine the organization. The list was compiled by members of the task force who were employees of the Service. A memorandum of August 8, 1963, to Mr. Chapper from an employee of the IRS working on the task force, stated that information on these organizations came from Service files,

⁵ In July, 1963, the Service was continuing its first phase test-audit program, and in his memorandum to Mr. Feldman, Mr. Caplin said that an expanded program was planned. However, in his interview, Mr. Rogovin said that the first-phase program was dying. (In April 1963, the first phase program was one of 23 exempt organization areas listed by the Assistant Commissioner (Technical) where there was "action required" by the Technical Division.)

from an outside publication called "Group Research", and from books and periodicals. In addition, Congressional hearings and committee files were to be developed. The memorandum noted that right-wing groups predominated in the list and indicated there was some trouble in developing names of exempt left-wing organizations, because it appeared that "the left-wing has been scrutinized a little more severely" since many left-wing organizations had less-preferred exempt status⁶ or were not treated as tax-exempt at all.

Mr. Chapper said in his staff interview that the organizations in the second-phase program were initially chosen by a couple of IRS employees who went through files. After a number of organizations had been tentatively chosen, the list was boiled down, in a joint meeting of perhaps six IRS people who were on the task force. Mr. Chapper said that the criteria for choosing an organization for the program included whether the organization was trying to influence the legislative process, and also the publicity the organization was getting.

By August 21, 1963, a list of 24 ideological organizations had been proposed for the second-phase project. Seven of these had also been part of the first phase program.⁷

Although the second-phase program was originally to be balanced between right- and left-wing organizations, it appears that this did not turn out to be the case. A "profile" of the organizations included in the second-phase project, written by two members of the Revenue Service task force in December 1963, states that "the term right-wing will be used to denominate" 19 of the 24 organizations ultimately included in the second-phase program.

Meetings at the White House and with the Attorney General.—Mr. Rogovin's notes show that on July 29, 1963, and August 21, 1963, he met with Mr. Feldman at the White House to review the second-phase audit program and to bring Mr. Feldman up to date on the program. A memorandum prepared by Mr. Rogovin states that during the August 21, 1963, meeting with Mr. Feldman, Mr. Rogovin went over with him the list of 24 organizations then scheduled for the program. The memorandum states that in reviewing the organizations, Mr. Feldman suggested deletion of two organizations (one right-wing and one left-wing). These two organizations were, in fact, subsequently deleted.

Mr. Feldman said in his staff interview, that he remembered meeting with Mr. Rogovin, but did not remember the details of the conversations. Mr. Feldman did not remember talking with Mr. Rogovin about deleting two organizations from the project. Mr. Feldman said he believed that the Revenue Service chose the organizations covered by the project. In his interview, Mr. Rogovin said he could not recall why Mr. Feldman had suggested deleting two of the organizations originally suggested. Mr. Rogovin also stated that Mr. Feldman did not suggest adding any organizations to the list to be audited.

A memorandum written by Mr. Rogovin states that on August 20, 1963, he met with Attorney General Kennedy, briefing him on the status of this project. The memorandum also states that Attorney General Kennedy indicated an interest in the status of the Service's in-

⁶ They were exempt under sec. 501(c)(4) and not sec. 501(c)(3) of the Code.

⁷ The 24 organizations were chosen from a list of 109 organizations. It appears that the rest of the 109 organizations were not the subjects of a special audit program, although in the early stages of the second-phase program there may have been consideration of later extending the program to all 109.

vestigation of one right-wing organization, and suggested that the Service "move this particular case along in a rapid fashion." (The "charitable" exempt status of this organization (under sec. 501(c) (3)) was revoked by the IRS. Subsequently, the organization applied for, and received, a determination that it was an exempt "social welfare" organization (under sec. 501(c) (4)).)

During the first few months that this program was in effect, there were some changes in the organizations included. The staff has found no evidence, however, that any of the organizations covered by the project were included because of a suggestion by anyone in the White House or in the Attorney General's office. However, as noted above, it appears that the organizations were discussed with a White House staff member.

Conduct of the second-phase program.—Generally, in the second phase program, the field offices were to gather facts about the organizations in question. Suggested guidelines for the field in handling these cases were developed by the National Office task force. Since the question was whether the organizations were "educational" under the law, the guidelines instructed the field to include a discussion of publications, broadcasts, forums, lectures and research, as well as finances, related groups, attempts to influence legislation, and demonstrations.

As information was received by the field, employees in the National Office who were working on the task force prepared factual analyses and made recommendations as to the disposition of each case. By the end of November 1963, investigation reports had been received from the field on 19 of the 24 organizations included in the program. By February 1964, 18 of the 24 cases had been analyzed by the National Office. (It appears that at least four National Office employees participated in this analysis, and there were another five employees who participated in the program at this time.)

In February, 1964, it was suggested that there were reasonably clear grounds for revocation of exemption in six of the cases analyzed. The next step was to prepare technical advice memoranda to the field on those cases where a revocation was to be recommended.

During this period, the task force also considered amendments to the Internal Revenue Code and changes in the Regulations in the ideological organization area. To facilitate this consideration, the task force developed an overall analysis of the 24 ideological organizations in question, dealing with the groups' organization, the media used by the organizations to contact the public, the subject matter covered by the organizations in their publications, etc., the organizations' finances, and other aspects of these organizations.

Reports to White House and to the Undersecretary of the Treasury.—On March 23, 1964, Mr. Rogovin sent a status report on the second-phase project to Myer Feldman in the White House. Generally, this report summarized the activity undertaken to date in the course of the project, stating that there had been an analysis of each organization, that an overall profile of characteristics of the organizations had been developed, and that work had been done on legislation and regulations. Also, the report described the technical approach developed to analyze the organization's activity. The memorandum said the next action was to be the preparation of technical advice memoranda to the

field offices, setting out the basis for revocation of an exemption where that was warranted. Additionally, examples of the types of analyses prepared on each case were included with the memorandum.⁸

Mr. Feldman said in his interview that he believes this was the last contact he had with respect to the Ideological Organization Project. Mr. Feldman said that this memorandum was received after the death of President Kennedy, and that he believes the Johnson administration did not have any further interest in the project.

At the end of 1964, it was decided that when the task force recommended an exemption be revoked, the recommendation would be sent to the Chief Counsel for informal legal review. This review would result in one of three general classifications: situations where there was a *prima facie* case for revocation, situations which would require further development before a conclusion could be reached, and no-change cases. By December 1964, 13 cases had been referred to Chief Counsel for review. Additionally, a proposed revocation of exemption had been sent to two organizations.

By December 1964, the task force had recommended revocation of exempt status of 15 organizations (14 right-wing⁹ and one not right-wing). No change was recommended in the case of nine organizations (five right-wing and four not right-wing).¹⁰

Later status reports.—In April 1966, a report was given to Commissioner Sheldon Cohen on the status of the ideological organization cases. With respect to the 15 cases proposed for revocation and submitted to Chief Counsel for consideration, in 3 cases exemption was revoked or was in the process of being revoked; 5 cases had been closed or were in the process of being closed because revocation was not warranted; 3 cases had been referred to the field for further investigation; and 4 cases were then pending in the Chief Counsel's office. The 3 cases in which exemption was revoked were all right-wing organizations.

A further status report was done in November 1967. At this time, a revocation letter had been mailed to 4 organizations (3 right-wing and 1 left-wing). In 14 cases there were no changes; 2 cases were returned to District Directors for additional development. Additionally, 5 cases were then under active consideration by the National Office. The status report noted that the major purposes of the study were fulfilled early in 1966. By that time, guidelines had been developed for technical personnel to dispose of most of the situations encountered in the area. One Revenue Ruling had been published (Rev. Rul. 66-256) and two Revenue Rulings and one Revenue Procedure were in process.

Sheldon Cohen (Commissioner of Internal Revenue from January 25, 1965, to January 20, 1969) told the staff that after he became Commissioner there was decision to wind down the project and put these examinations back into the normal channels.

⁸ Later reports on this project were provided by the IRS to the Secretary of the Treasury or the Undersecretary of the Treasury. Such reports were prepared on Aug. 17, 1964, Sept. 30, 1964, Dec. 24, 1964, Feb. 8, 1965, and Mar. 8, 1965. Generally, those memoranda were to bring the Secretary of the Treasury (or the Undersecretary) up to date on developments in this project.

⁹ The characterization used is that which was applied by the Service in December 1963.

¹⁰ There were 25 organizations in the project at this time. However, one had been just added, so it was too early for a recommendation to have been made. The organization added was not right-wing.

XI. COMMITTEE CONSIDERATIONS

Accumulation of Information on Political Activities

A basic function of the Special Service Staff was the accumulation of information on individuals and organizations associated with "extremist organizations" of both the left and right sides of the political spectrum. While the Revenue Service must accumulate information on individuals and organizations to properly carry out its taxing functions, a basic question raised because of the SSS activity is whether the IRS should ever accumulate information on the political activities of organizations or individuals.

As described above (in section I, Introduction) it appears that the IRS is required to acquire information on political activities of certain tax exempt organizations in the administration of the tax laws. However, it is questionable whether information on political activities of organizations that are not tax-exempt (or on individuals) could be considered tax-related information except to the extent a business deduction is denied for expenses incurred in the participation or intervention in a political campaign for public office or in connection with grassroots lobbying.

The reason for questioning the keeping of political information in a file is that there are significant questions regarding a possible adverse impact on the exercise of these activities.¹

The staff understands that the IRS is studying what constitutes

¹ Several suits have been brought against various governmental bodies which were gathering and, in some cases, disseminating information about certain groups and individuals. The principal contention in these suits was that the First Amendment rights of free speech and association were being "chilled" by the mere existence, without more, of unreasonably broad governmental investigative and data-gathering activity.

In 1972, in the case of *Laird v. Tatum*, 408 U.S. 1 (1972), the Supreme Court held that the mere existence of a data-gathering and disseminating system maintained by the United States Army with respect to public activities possibly having potential for civil disorder did not present the court with a "justiciable controversy" with respect to which any determination could be made. The Court ruled that it was unable to hear the merits of the case because the complainant had failed to show that it had sustained or was immediately in danger of sustaining a specific injury.

Subsequent cases involving this contention have followed the *Tatum* decision and denied any relief to the complainants: *California Bankers Association v. Schultz*, 416 U.S. 21 (1974) (records kept pursuant to the Bank Secrecy Act); *Fifth Avenue Parade Commission v. Gray*, 480 F. 2d 326 (2d Cir. 1973) (information compiled by FBI with respect to upcoming demonstration); *Finley v. Hampton*, 473 F. 2d 180 (D. C. Cir. 1972) (information compiled by Civil Service Commission and HEW as a result of security investigation of FHA employee); *Donohoe v. Duling*, 465 F. 2d 196 (4th Cir. 1972) (maintenance by Richmond, Virginia police of files containing photographs of participants in demonstrations and other public meetings); *Philadelphia Yearly Meeting of the Religious Society of Friends, et al v. James H. J. Tate, Mayor, City of Philadelphia, et al*, 382 F. Supp. 547 (E.D. Pa. 1974) (maintenance by Philadelphia, Pennsylvania police of dossiers on various groups and individuals). (The court, in this case, also held that the public disclosure of the name of a group with respect to which a file was being kept did present a controversy worthy of the court's consideration, but that the "chilling effect" was not substantial enough to warrant a ruling for the complainant.)

In two recent cases, the complainants were at least partially successful: *Socialist Workers Party v. Attorney General of the United States*, 510 F. 2d 253 (2d Cir. 1974) (injunctive relief denied regarding FBI surveillance of youth organization convention, but court prohibited dissemination by FBI of convention attendance information to the Civil Service Commission); *Paton v. La Prade*, 382 F. Supp. 1118 (D. N.J. 1974) (while denying damages for the FBI's maintenance of an investigative file regarding possible subversive activities, the court exercised its equitable powers and, finding that the FBI file contained no useful information to the exercise of its law enforcement functions, ordered its destruction).

tax-related information which appropriately may be maintained in IRS files. The committee may wish to consider reviewing with the IRS the conclusions of that study, with special emphasis on the proper role of both the National Office and the field offices of the Service in collecting and maintaining information on political activities of individuals and organizations.

Basis for Reviewing Compliance With the Tax Laws

It appears that, although not well defined, the basic criterion for including an individual or organization in the Special Service Staff files was association with "extremist" or "civil disobedience" or "activist" activities. These files formed the basis for checking compliance with the tax laws and consequently the basis for referrals by the Special Service Staff to the field and for consequent field action.

It would appear questionable whether there should be an organization in the IRS such as the Special Service Staff which in part appears to have been directed toward specific types of activist organizations. It seems inappropriate for the Revenue Service, in the course of administering the tax laws, to focus its activities on people who are engaged in civil disobedience, etc., unless there is information that they have any propensity to evade the tax laws. Of course, no law provides that people who engage in political dissent can ignore the requirements of the tax laws. If audits or collection activity are politically oriented, this can act to the disadvantage of one political group (or a spectrum of political opinion) through the taxing powers. The potential adverse impact on the tax system because of such action by the Service (not to speak of the implications this would have for our basic system of government) would appear to require that the Service take special care to avoid actions that are determined on the basis of political activity alone. However, where the political action involves disobeying and perhaps hindering the administration of the tax laws, it seems necessary for the Service to focus its efforts on the organizations and individuals involved. A closer question would appear to arise where the political activities are not directed to tax resistance, but involve organizations or individuals that, as a matter of fact, frequently do not meet their tax responsibilities.

Relationship Between the White House and Internal Revenue Service

In the case of the Ideological Organizations Project, it appears that both the first-phase and the second-phase programs were stimulated by the White House. In the case of the Special Service Staff, it appears that the White House requested that the Service take some action regarding tax-exempt activist organizations.

In each of these two cases, there were policy directions from the White House that the Service should generally enforce the laws with respect to exempt organizations engaged in political activity. There also were suggestions or guidance from the White House with respect to specific organizations that might be audited.

It appears that when the White House becomes involved in giving guidance or suggestions to the Service that particular organizations should be examined, there is significant potential for political use of the Service. Even if the White House actions have no motive other than equitable compliance with the tax laws, nevertheless similar ac-

tions could be used at other times with other motives. In addition, it appears that such relationships tend to substantially reduce the faith of taxpayers in the impartiality of the administration of the tax system. This is especially true if the White House becomes involved in an audit of taxpayers who may be political opponents of the incumbent administration.

A somewhat different issue is whether the White House should suggest that the Service undertake an audit program of activist organizations in general. It may be argued that, because of the abuse that is possible in this area and its consequences for the tax system as a whole, the White House should completely avoid any such suggestions.

On the other hand, it can be argued the Service should not be left entirely on its own in this regard, because the Service by itself could begin to direct its actions toward one end or the other of the political spectrum. The Committee may wish to consider whether public Congressional oversight hearings could sufficiently ensure that the Service will act with an even hand in this very sensitive area. While Congress also has tried, and may in the future attempt, to exert influence upon the Service, the Committee may wish to consider whether the likelihood that Members of Congress could exert their own pressure on the Service to influence its examinations would be sufficiently reduced through public hearings.

Another issue involves communication between the Service and the White House. In order to be sure that communications with the White House come to the attention of the Commissioner, who is responsible for the independent action of the IRS, the Committee may wish to consider whether communications between the White House and the Service (both to the Service and from the Service) should go through officially designated channels. To the extent such communications are not written, it may be appropriate to have an established system within the Service of reporting such communications.² Also, it may be appropriate for the Service to provide the committee, on a periodic basis, with a list of requests from the White House concerning information on specific individuals and organizations.

Information To Be Used in Determining Exempt Status

The Special Service Staff provided the Exempt Organizations Branch with confidential information on individuals associated with organizations that were involved with a determination of their exempt status. In many cases, this information concerned the character of individuals associated with these organizations. Also, often the information concerned previous activities of individuals when the question before the Exempt Organizations Branch concerned the future program of an organization.

In the usual case, the Internal Revenue Service makes a determination as to whether an organization is to be treated as exempt or taxable based on the information submitted by the organizations. In many cases, the organization has not yet begun its operations. The committee may wish to explore whether the IRS should go beyond the form and substance stated in an exemption application and seek additional information with respect to certain organizations where IRS experience indicates that this type of organization is

² The staff understands that Commissioner Alexander has instituted such a system.

more likely to operate in a manner inconsistent with the purpose and activities set forth in the application. The committee also may wish to consider generally whether information available to the Internal Revenue Service, other than that provided in the exemption application, should be used in the initial determination process for a new organization or should be used later in determining whether an audit should be made.³

Reviewing Actions by the IRS

It appears that the best "safeguard" to prevent activities such as the Special Service Staff is alert and sensitive management within the Internal Revenue Service. However, the committee may wish to consider independent actions that might be taken to institutionalize some safeguards.

To the extent that the Special Service Staff (or the Ideological Organizations Project) was stimulated by the White House, channeling and reporting of communications as described above may be appropriate. To the extent it was stimulated by congressional activities, the committee may wish to consider similar reporting by the Service to the committee about congressional inquiries.

The Special Service Staff operated for about 21½ years before a functional statement describing the SSS was included in the Internal Revenue Manual. Also, the functional statement did not fully explain what the SSS did. As a consequence, it was difficult for the Congress (or the public) to review the group's action. The committee may wish to consider whether each National Office task force (or other task force of national scope) that operates longer than a specified period (*e.g.*, 90 days) should be disclosed to the Congress and the public, with a clear description of its activities.

An important aspect of the Special Service Staff (and the Ideological Organizations program) was the relationship of the National Office to the various district offices. The National Office generally does not direct the field to initiate audits (and the field referral documents used by the Special Service Staff generally reflect this policy. However, in both these projects, there was direction of the field by the National Office. The committee may wish to consider whether it should receive a report regarding any program of National Office field referrals.

³ If it is determined that such information should be acquired and used, additional questions should be considered. For example, who should have the responsibility within the Internal Revenue Service for obtaining additional information, how should such information be obtained, and what standards should be established to insure that this activity is not used in violation of the First Amendment rights of organizations in question?